

**FINAL REPORT**  
**BY**  
**SUBCOMMITTEE ON**  
**COMPETITION AND PRIVATIZATION**

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# COMMITTEE ON LEGISLATIVE RESEARCH

## Oversight Subcommittee

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THE COMMITTEE ON LEGISLATIVE RESEARCH, Oversight Division, is an agency of the Missouri General Assembly as established in Chapter 23 of the Revised Statutes of Missouri. The programs and activities of the State of Missouri cost approximately \$19.2 billion annually. Each year the General Assembly enacts laws which add to, delete or change these programs. To meet the demands for more responsive and cost effective state government, legislators need to receive information regarding the status of the programs which they have created and the expenditure of funds which they have authorized. The work of the Oversight Division provides the General Assembly with a means to evaluate state agencies and state programs.

THE COMMITTEE ON LEGISLATIVE RESEARCH is a permanent joint committee of the Missouri General Assembly comprised of the chairman of the Senate Appropriations Committee and nine other members of the Senate and the chairman of the House Budget Committee and nine other members of the House of Representatives. The Senate members are appointed by the President Pro Tem of the Senate and the House members are appointed by the Speaker of the House of Representatives. No more than six members from the House and six members from the Senate may be of the same political party.

PROJECTS ARE ASSIGNED to the Oversight Division pursuant to a duly adopted concurrent resolution of the General Assembly or pursuant to a resolution adopted by the Committee on Legislative Research. Legislators or committees may make their requests for program or management evaluations through the Chairman of the Committee on Legislative Research or any other member of the Committee.

### *COMMITTEE ON LEGISLATIVE RESEARCH*

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*Representative Rod Jetton, Chairman*  
*Representative Frank Barnitz*  
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# INTRODUCTION

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## **A. The Subcommittee on Competition and Privatization**

Many states across the nation are turning to privatization as a means of controlling costs and limiting growth in state government. The Subcommittee on Competition and Privatization was created by Senate Concurrent Resolution 13 by the 2003 Missouri Legislature. The Subcommittee is scheduled to terminate on December 31, 2004. The Subcommittee consists of 16 members appointed by the President Pro Tem of the Missouri Senate and the Speaker of the Missouri House of Representatives. The chairman of the Subcommittee is Senator Gary Nodler of Joplin.

## **B. Subcommittee Members**

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Neal Jones  
AMA - AMF  
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### **C. Objectives**

The resolution creating the Subcommittee mandated it to identify ways to reduce cost to state government and increase quality of state services to the citizens of this state. The Subcommittee established objectives which included:

- 1) Successfully working in a bipartisan manner in which trust and information is shared by all branches of state government.
- 2) Beginning to identify opportunities for privatization statewide.
- 3) Further establishing an organizational and analytical structure to implement the privatization effort.
- 4) Identifying current and new legislation that could be modified or enacted to best increase efficiencies in state government.
- 5) Evaluating structural and other barriers to change and ways to overcome them.
- 6) Developing a set of processes that agencies could adopt.
- 7) Utilizing outside resources by systematically studying options and strategies in the workings of the committee.

### **D. Hearings**

The Subcommittee met during the period of October, 2003 through September, 2004 (See Appendix for Hearing Summaries). It has done an extensive review of information on privatization and contracting out, and research on the experiences of other state governments. Public hearings were held in Jefferson City, Kansas City, Springfield and St. Louis. During these public hearings, numerous state officials, business and association representatives, private citizens, and national and state experts made presentations to the Subcommittee.

In addition, the Subcommittee heard testimony from private companies on the potential for private sector performance of governmental services and discussed administrative changes and future legislation that would modify state statutes and regulations that impede the private contracting of public services.



## **E. Defining Privatization**

A broad definition of privatization for government includes the process of reducing the role of government, or increasing the role of the private sector in an activity or in the ownership of assets. It may involve transferring the financing and/or production of a service from the government sector to the private sector. The State of Michigan summarized this into four types of economic arrangements. They are:

- 1) Public sector production and public sector financing (i.e., with appropriations established by the Legislature and Governor), with the service available to those persons specified by government.
- 2) Public sector production with private sector financing, with private individuals and firms making the decision of whether or not to purchase.
- 3) Private sector production with public sector financing, with government agencies contracting for the delivery of the service.
- 4) Private sector production and private sector financing.

## **F. Current Privatization Efforts in Missouri State Government**

In order to gain a better appreciation and understanding of the extent that contracting out is utilized by Missouri state agencies and of agency experience with contractual services, the Subcommittee directed staff to mail a survey to all Missouri state departments. The initial survey (See Appendix) contained three questions. They were:

- 1.) What function(s), if any, has your agency successfully privatized?
- 2.) What function(s), if any, has your agency attempted to privatize, but did not complete? What were the obstacles of reaching your goal?
- 3.) Are there any state or federal statutory restrictions that would prevent your agency from privatizing certain functions?

Responses were received and reviewed from state agencies (See Appendix). Many of the agencies provided very insightful comments in response to the initial survey questions. The initial survey demonstrated that there is an understanding of the value of contracting out, as well as the difficulties involved. A follow-up survey (See Appendix) was sent to all state departments. The follow-up survey contained four additional questions. They were:

- 1.) Does your agency have any written procedures for the process of determining how a service would be considered for privatization and/or competition?
- 2.) What is your agency's decision process for privatization?
- 3.) What are your agency's strengths and weaknesses in this process?
- 4.) What would you change about the process and why?

## SUMMARY

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The desirability and feasibility of contracting with the private sector for the performance of governmental services is established in all states. Various reviews and surveys by outside organizations document the extensive and historical use of contracting out and other privatization alternatives in state government. Fiscal pressures on state governments are one of the main reasons for even greater impetus for the use of privatization. The growth in employees and state government budgets is the result of several factors: increased number of mandates from the federal government, demands from citizens for increased and new programs, the lack of an institutional framework to control the growth in government, and the absence of a comprehensive oversight process.

Missouri appears to rank in the middle of states in terms of the use of contracting out and/or privatization of government services. A survey performed of each state department in Missouri government disclosed that there is a wide variety of procedures and policies being used to review and determine what services should be considered for privatization. However, common framework or methodology has not been adopted to determine whether, and in what circumstances, privatization could or should occur. Decisions to privatize have been vested almost entirely within the executive branch of state government. No formal system exists for citizens, legislators, or public employees to be involved in those decisions. There is no formal entity or process whereby the private sector is able to make suggestions or lodge complaints about alleged competition or the use or misuse of privatized services. There is also a need to monitor existing privatization efforts.

The Subcommittee acknowledges that any decisions on privatization will affect state employees. The Subcommittee notes that layoffs do not and need not necessarily result from decisions to privatize or eliminate a function or functions. For example, employees affected by such decisions could be reassigned to other government functions for which vacancies exist that require such skills or comparable skills. These reassignments might occur within that employee's agency or if there are no suitable vacancies within the agency, in another state agency. Under other circumstances, normal work force attrition might allow agencies to downsize their operations in response to certain privatization efforts without instituting layoffs. An agency could also invite voluntary job sharing which would result in a reduction in individuals' work hours rather than eliminating positions. The Subcommittee also takes the position that proposals related to layoff procedures should be aimed at adopting the "best practices" of the private sector and more effectively meeting the individual needs of employees.

The Subcommittee recognizes that increased privatization activity will require more monitoring

capacity on the part of state government. This will require necessary resources and staff training to ensure that this responsibility is competently and efficiently executed.

Finally, there is an overriding need to establish a framework for contracting out to the private sector and privatization within Missouri state government that provides formal input and access to decision-making. A permanent Missouri state government organization would be established to implement a detailed process under a tight methodology for determining whether privatization options are appropriate, efficient, and effective. The Subcommittee believes that the organization should operate under the direction of the Governor and may also operate on requests submitted to the organization by private sector businesses interested in exploring an analysis of government functions. This organization could be created by executive order or statutorily mandated. In testimony from Kathleen Harnish-Doucet, TeamTech, in Springfield, Missouri on August 6, 2004, she stated that "Success requires a strong commitment and cooperation of the Executive Branch." She further stated, "Be careful about separating strategy from implementation. Sometimes it can be a challenge to get things implemented even though they're really good ideas."

The organization should be authorized to hold hearings through the following process:

- 1.) The organization receives:
  - A written suggestion by a Missouri citizen (including legislators, public employees or organization) to review a government function that has been delegated to the private sector,
  - and/or a petition of private interest,
  - and/or a private sector inquiry of public sector competition
- 2.) The organization reviews the above information and decides whether or not to proceed with an analysis. The Subcommittee may request additional information prior to making a determination to proceed with an analysis.
- 3.) If a majority vote agrees to proceed, the organization may collect the necessary data to determine if governmental functions may be outsourced to the private sector. The organization is authorized to hold hearings involving testimony from those who presented the petition to determine the validity of the request.

While the Subcommittee was charged with identifying ways to reduce costs to state government and increase the quality of state services being provided to the citizens of Missouri, a common thread through all committee hearings was the interest in improving government efficiency. Efficiency can be translated into either gains in quality or reductions in costs, or both. Efficiency can not be reviewed without an honest and accurate discussion of money. How much does it

really cost for state government to perform a given program? How much would it really cost the state to have one of its given programs performed instead by a private sector business? In the final report on the Kansas Council on Privatization, the council stated that “it is imperative that these questions be accurately answered before the state decides to privatize, eliminate, retain, or modify (PERM) any of its services.”

The Subcommittee recognizes that the process by which services would be chosen to be reviewed for potential outsourcing should meet certain criteria before any program is outsourced. The Subcommittee heard testimony about other states in regards to establishing a list of criteria to consider before a decision can be made to privatize or outsource any function. The list presented below is a list the State of Michigan adopted.

- Ability to specify the requirements of the service in advance of production
- Ability to switch from one producer to another without serious disruption in service delivery
- Achievement of tangible benefits, such as operating or capital cost savings, higher quality services, providing services not otherwise available, risk sharing, shorter implementation time, and solving problems
- Accountability in terms of process or outcome
- Amount of efficiency gain
- Availability or potential availability of competitive private sector producers
- Characteristics of the activity (those concerning policy management, regulation, objectives related to equity, discrimination, stability or services, and social cohesion)
- Continuing need (if a program is not needed, it should be eliminated)
- Control of program or activity (necessary participation of the universities, state board of education, and legislature)
- Costs of resuming government production in privatization or elimination options do not materialize as planned
- Legal constraints that may impede privatization efforts
- The determination of the level of quality of services needed
- Monitoring costs of government agencies if privatization is the selected option
- Transition costs associated with the shifting public sector service delivery to the private sector service delivery

Missouri can learn from other states’ (Texas, Michigan, Virginia, Arizona, Colorado, and Kansas) experiences with privatization. These experiences would include defining the problem. Private business executes some services better than government and vice versa. For example, the public sector is better at policy management, regulations, ensuring equity and preventing discrimination and exploitation. Private business is better at innovating, replicating successful experiments, adapting to rapid change, and aborting unsuccessful or obsolete activities.

Missouri can also learn from other states' experiences in competition, identifying goals and measurable results of services, integrating privatization review procedures with the budget process, ensuring the accuracy of methodologies for comparing costs of public and private sector services, ensuring that contracting governments have sufficient capacity and adequate resources to monitor projects, and recognizing the importance of educating the public.

## PROCESSES AND PROCEDURES

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### A. Missouri Competition and Privatization Board

A Competition and Privatization Board should be established by statute to receive petitions, complaints, and suggestions in order to conduct hearings, to issue findings and rulings, and initiate processes on:

- 1.) citizen/public suggestions or complaints,
- 2.) petitions of private interest, and,
- 3.) issues of alleged state agency competition with the private sector.

The Board, on issues brought to it, would hold hearings and conduct inquiries, and issue a ruling of finding of merit. It would order through the Commissioner of Administration that the responsible agency undertake a formal PERM (Privatize, Eliminate, Retain, Modify) analysis of the function, service, or product under consideration.

### B. The PERM Analysis

The Michigan PERM analysis is an analytical process for determining whether a specific government service or function should be privatized. The PERM analysis is conducted at the agency level under the direction of its Office of Management and Budget. It provides a useful model or prototype for Missouri state government.

While a number of conditions may need to be met, or could be imposed, before an existing governmental service is privatized, the fundamental condition that would need to be satisfied is:

***whether the service under consideration could be provided by the private sector and at a cost and quality at least equal to the existing cost and quality of the currently provided service.***

Beyond a realization of this general condition, an explicit set of guidelines or a checklist would need to be established that outlines the issues to be considered in deciding whether privatization is the preferred alternative.

Reliable and accurate cost accounting of both public and private service delivery is also essential to the analytical process. Cost accounting manuals and procedures are available from national organizations and other states. Cost comparisons require the determination of “in-house fully allocated costs, or direct costs plus share of indirect costs.” The cost of contract service delivery

must also be calculated, including contractor costs, administration costs (including performance monitoring) and costs to make the transition from the public to the private sector.

### **C. Initiating a PERM Analysis**

The PERM analysis must involve executive branch cooperation. Initiation of a PERM analysis could result from the decisions of executive branch officials or from the Board. Key officials from a leadership perspective would include the Commissioner of Administration and the Budget Director. Their involvement could fall within two categories:

- 1.) The supervision and conduct of analyses affecting cross-cutting services or functions involving two or more agencies of state government
- 2.) The supervision of analyses involving individual agency or agency-specific services and functions with direct responsibility vested in an individual agency for the preliminary analytical work

Mandatory review of service delivery options could be required on the part of the Commissioner of Administration and the Budget Director under two conditions:

- 1.) As part of the budget process, where management and fiscal reviews are conducted of existing functions and services to ensure that least-cost, effective, and quality methods or options are adopted
- 2.) As part of the budget and legislative process, to ensure that new or proposed government functions and services are reviewed to determine the best option for provision or delivery

Under the first set of conditions, a PERM proposal might be generated internally by an agency, or as a result of externally generated suggestions or complaints. An executive or legislative requirement could also be established where a percentage of certain agencies' budgets be reviewed annually for the purpose of identifying potential privatization opportunities. The merit of such mandated reviews is discussed below.

An agency or executive branch proposal to initiate a new service or function could be required to undergo a PERM analysis. The magnitude of the service or function that would trigger a PERM analysis could be completed prior to the inclusion of a new service in the Governor's budget. The analysis of fiscal impact that is required of new programs or services proposed by the legislature could include a comment or recommendation regarding the privatization option. A formal PERM analysis could be required of any new program adopted by the legislature and the



Governor prior to its implementation.

This process would be similar to the Missouri Sunset Act (Sections 23.250 through 23.298) passed during the 2003 legislative session. This Act sets forth certain criteria that the affected state agency would submit to be considered by the Joint Committee on Legislative Research. The Committee is required to submit a report to the General Assembly and the Governor outlining the programs scheduled to sunset. In the report, the Committee would include any findings on the criteria and any recommendations on the sunset, continuation, or reorganization of a program. The recommendations could also include consolidation, transfer, or reorganization of programs that duplicate similar programs in other state agencies. In addition, recommendations for appropriation levels would be made for each program for which sunset or reorganization is recommended.

Alternatively, proposed new services or functions could be automatically submitted for bids. Michigan privatization officials advocate this approach in order to minimize the cost of PERM analysis activity. Instead of conducting a thorough PERM review of each new program, both private and public entities are invited to bid for the right to perform the service in question. Prospective additional services involve consideration only of the merits of privatization – the options of elimination, retention and modification are not relevant.

In evaluating all of these possible means for initiating a PERM analysis, one must address the following question: how are potential efficiency gains to be identified? The PERM process prescribes an analytical regimen, but it is not self-activating. Somebody must identify what is to be analyzed. One option is to set objective criteria which automatically trigger a PERM analysis when these criteria are not satisfied. For example, a PERM analysis could be mandated when any given state function fails to satisfy quantified performance criteria established by the Legislature, or if the agency experiences an increase in its indirect costs for the service above a specified percentage.

There are few reasons why this “objective trigger” approach is unsatisfactory. The first reason and the most compelling one, is that it is currently not technically feasible. Missouri’s experiment with performance measurements is still in its infancy and a highly detailed level of uniform cost accounting coding is not in place. Second, this approach could trigger an overload of PERM projects which would be cost prohibitive.

Consequently, the Board should contemplate a scope of reform which identifies candidates for efficiency improvement through a more subjective method. If PERM projects are therefore identified through a relatively subjective initial screening, comprehensive cost accounting reforms are less important to the goal. Those who conduct the PERM analysis can find the financial data they need for targeted functions on a case-by-case basis, although the process will

be somewhat more cumbersome than it would otherwise be with major accounting reforms implemented.

If PERM projects are carefully identified, significant efficiency gains are still possible on an incremental basis. However, this approach greatly multiplies the importance of designating the most appropriate people to be responsible for conducting and selecting PERM projects.

#### **D. Responsibility for the Cost Accounting Analysis**

The Board should identify several qualities appropriate for the PERM-controlling entity. Unlike Michigan, which initiated and now governs its PERM process solely through executive branch authority, Missouri should more formally institutionalize that process. However, the Board should be averse to a Missouri process controlled predominantly by the Legislature. Legal questions regarding constitutional separation of powers between the executive and legislative branches and the Board's desire to retain close private sector ties are also major considerations.

The Board should consider four possible "actors" to conduct PERM analyses: 1) the Joint Committee on Legislative Research - Oversight Division 2) the target agency itself, 3) Office of Administration, or 4) a newly created entity.

The Joint Committee on Legislative Research - Oversight Division, was the first possibility considered. The Division now performs investigations and analyses that are similar to the PERM process envisioned, and it maintains a professional and neutral relationship with those under its investigation. The drawback of Oversight Division is that it is controlled directly by the Legislature. While Oversight Division itself may be an impartial entity, the Legislature (which alone dictates Oversight Division's workload) is often driven by partisan motives.

Other agencies – those which may become targets of future PERM investigations – also offer positive qualifications. They know the day-to-day functions of their own operations and thus recognize the best opportunities for efficiency improvements. However, they also have the strongest bias against change. The tendency of agencies to assume a defensive posture could color their view of the feasibility of change. Even purportedly "factual" data submitted by an agency in response to a PERM request could be slanted in favor of the status quo or whatever predisposition the agency holds. The PERM data submitted by targeted agencies could overlook major cost factors or major analytical factors that are relevant to the request.

The potential for bias raises questions of agency compliance. If targeted agencies are for some reason uncooperative or indifferent to the PERM process, an enforcement mechanism will be needed to acquire useful PERM data in a timely manner. An enforcement tool must take into account fundamental restraints upon the abrogation of agency authority which is specifically

conferred by the state constitution. In other words, any enforcement authority given to a PERM-conduction entity must not violate the state's constitutional separation of powers principles.

The debate about who should conduct a PERM analysis is only somewhat different from the question of who should define and select PERM projects. Potential biases of the two entities mentioned above in conducting an analysis could also appear during a project selection phase, and probably to an even greater extent. Consequently, the Subcommittee considers the creation of a new and impartial entity to be preferable. A new body also could be established in a configuration which maximizes the input of private citizens and acts more clearly on their behalf. It could also borrow from the strengths of existing entities in a cooperative manner.

### **E. Funding Implications**

The Subcommittee was at all times sensitive about implementing reforms that would create a financial burden for state government. However, no analysis of efficiency-enhancing options can be performed without some direct or indirect expense. Merely asking an agency for relevant financial records will alone require state employee time for its compilation. That, unfortunately, is just one component of the cost of a PERM analysis. Somebody must select the projects to be undertaken. Somebody must compile the data necessary for an analysis. Somebody must analyze the data in order for an action to be recommended.

There are political, practical, and philosophical reasons to avoid the imposition of unfunded mandates upon state agencies in this context. The political reason is to circumvent opposition to proposed legislation for implementing the PERM process. State agencies may legitimately argue that their cooperation with PERM investigations will constitute a compensable service on their part. Their concern can easily stall the progress of PERM legislation.

The practical reason is that the state would pick up the cost of agency cooperation one way or another. If agency cooperation is mandated, the workload of agencies will be increased and funds will be diverted from other priorities to see that the mandate is satisfied. Alternatively, agencies could be directly compensated for their assistance and the overall expense would remain the same.

The philosophical rationale against unfunded mandates on state agencies is to preserve honesty and openness and to lead by example. Rather than cloaking the cost of PERM analyses by imposing unfunded mandates upon agencies, directly compensating agency assistance will foster their cooperation and facilitate full disclosure of the actual total costs related to PERM activity. Direct agency compensation will also force those who govern PERM investigations to be more accountable in justifying their activity.

A newly created entity for selecting and conducting PERM analyses must avoid becoming part of the problem it seeks to resolve. Any such entity created by legislative action will – at least in perception if not in fact – become a part of the very bureaucratic inefficiency it hopes to reduce. For this reason, the new entity should be: 1) provided resources sufficient to make a significant impact toward cutting state government inefficiency; 2) constructed with a minimalist philosophy, keeping its institutional size to the bare essential; 3) held to a cost/benefit standard of justification, achieving government savings which exceed the cost of its activity; and, 4) constantly vigilant for opportunities to improve its own efficiency, including the prospect of contracting out a portion of its function.

Private sector consultants will most likely be needed on occasion to assist the PERM process. For example, a targeted agency may lack adequate staffing or expertise to respond to PERM inquiries, or the new PERM-governing entity may need assistance in evaluating PERM data. Again, funds must be available for this expense.

The Michigan Experience. Michigan established a Division of Privatization in January of 1993 to perform its PERM analyses. The Division receives an annual budget of \$435,000 and includes a staff of one administrator and 4.5 analysts. The Division has undertaken 50 PERM projects since its inception (through 1.75 years of operation), each of a varying scope, at an average cost of \$22,157 per project. The average project lasts four months.

PERM costs of the targeted agencies are included within this average project cost. The average project consists of 400 hours of work by the targeted agency and 240 hours by the Privatization Division's staff. The average hourly wage of target agency workers and Division workers employed on each project was \$34.62. This hourly wage includes the cost of employee benefits.

The PERM-related expense not included in this average is the cost of private sector consultants. Michigan had 11 consultant contracts over the span of its 50 projects. The aggregate expenditure of these 11 contracts was \$2,856,656, with the lowest contract totaling \$37,000 and the largest contract totaling \$618,000. Private consultants were hired only on PERM projects of the widest scope and were paid by the target agency under investigation.

An overall assessment of Michigan's success through its PERM projects is not available. It has used the PERM process for less than two years and the bulk of its projects which have significant savings potential are still being evaluated. Most of the 50 projects completed to date involve state activities that have fully allocated costs of under \$1 million each. To warrant a recommendation for privatization, Michigan standards require cost savings projections of at least five percent for large dollar activities, and at least 25 percent savings for the lowest dollar (under \$25,000) activities evaluated.

The state-run liquor distribution and sales business was one of the largest Michigan candidates reviewed for privatization. Depending on the scope of privatization eventually implemented and other factors, the PERM process had identified potential state savings between \$63 and \$100 million over five years in this area.

Michigan recently publicized another major privatization project. Governor John Engler has agreed to sell the state's workers' compensation fund to Blue Cross/Blue Shield of Michigan for \$291 million.

Several good examples, although more modest, are noted by Michigan's Department of Transportation. The PERM process has assisted that agency in identifying and recommending the following improvements: privatized staking of road grades on construction projects, state costs savings of \$702,500; privatized maintenance of roads in the Lansing area only, state cost savings of roughly \$80,000; private sector distribution of brochures and other literature to the state's 13 welcome centers, state cost savings of \$149,800; and, privatized reprinting of materials submitted by bidders for proposed highway projects, state savings of \$34,134.

Michigan has also exercised a procedure which constrained the variety of PERM projects reviewed. All of the state's PERM projects have been initiated at the suggestion of Michigan agencies. Although none of the ideas for PERM analysis were formally requested by private sector businesses, Michigan is now beginning to solicit their input. Perhaps not by mere coincidence, more than 80 percent of the PERM analyses performed to date have resulted in recommendations either to modify the examined services or retain them in their present form. Some Michigan officials believe that state agencies have been reluctant to suggest review of activities if they anticipate that the outcome of a PERM analysis will be privatization or elimination.

## **RECOMMENDATIONS**

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### **Creation of the Missouri Competition and Review Board (MCRB)**

The Subcommittee recommends that the Missouri Legislature enact a bill establishing the MCRB, to be responsible for managing and overseeing the formal decision-making process surrounding the privatization, elimination, retention, or modification of state government services and functions.

The MCRB could consist of five members appointed by the Governor and confirmed by the Missouri Senate. No more than three members of the Board should be from the same political party. Board members should be appointed to serve four-year staggered terms with at least two members selected to serve initial terms of two years. The members of the Board should receive compensation and reimbursement for travel and per diem subject to appropriations.

The Commissioner of Administration should serve as an ex-officio, non-voting member of the Board.

The Board should receive an annual appropriation to fund the salaries and wages of a small staff and the operating expenses and other expenditures of the agency, as determined by the Legislature. The annual appropriation should also include funds to support the conduct of PERM analyses. The amount of state investment which the Subcommittee recommends for PERM-related activities is \$500,000 annually. This amount would be appropriated to MCRB alone, with MCRB being responsible for the disbursement for its own staff; reimbursement to state agencies assisting or complying with PERM projects; and the payment of any private sector contractors which MCRB seems appropriate in given situations. Funding of \$500,000 should represent the actual total cost of the PERM program each year. However, depending upon MCRB's degree of success in achieving government cost savings and efficiency gains, a higher level of funding may be warranted in outlying years in order to pursue additional PERM projects or larger scale projects.

## APPENDIX

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- A. Comments: Senator Joan Bray
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  - Texas Government Code Creating State Council on Competitive Government
  - Annual Savings from Competitively Contracts State Activities FY 94 - FY 03
- H. State of Virginia - Commonwealth Competition Council
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  - Website Material
  - Public/Private Performance Analysis Submittal Form
- I. State of Michigan - Public-Private Partnership Commission
- J. State of Arizona - Office of the Auditor General: Private Enterprise Review Board
- K. State of Kansas
  - Legislative Division of Post Audit, State of Kansas, March 2001
  - Final Report - Kansas Council on Privatization - "Privatize, Eliminate, Retain or Modify: A Strategy for Competitiveness in Government"
- L. Missouri State Auditor Report - Consulting and Other State Contracts
- M. State Agency Privatization Survey
- N. State Agency Technology Assessment
- O. Oversight Division - State Comparison Study

- P. Senate Research State Employee Comparative Data
- Q. Testimony Outline: Kevin Drollinger, Executive Director, Epworth Children and Family Services
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# The General Accounting Office

## Privatization. Questions State and Local Decisionmakers Used When Considering Privatization Options.

This report, published in April of 1998, addressed the privatization efforts of the states of Georgia, Massachusetts, Michigan, New York and Virginia as well as the city of Indianapolis. The report lists the six lessons generally common to all of the governments implementing privatization initiatives. The six lessons are listed below;

1. **Political Champion.** Privatization can be best introduced and sustained when there is a committed political leader to champion it. These leaders build internal and external support, sustain momentum and adjusted implementation strategies when barriers arose. The political champion has been the governor in several states and it has been key state legislators along with the governor in Virginia.
2. **Implementation Structure.** Once privatization is introduced, an organizational and analytical structure to implement the privatization effort needs to be established. Five of the six states reviewed established government-wide commissions to identify privatization opportunities.
3. **Legislative and Resource Changes.** Governments may need to enact legislative changes and/or reduce resources available to government agencies in order to encourage greater use of privatization.
4. **Reliable Cost Data.** Reliable and complete cost data on government activities are needed to assess the overall performance of activities targeted for privatization, to support informed privatization decisions, and to make these decisions easier to implement and justify to potential critics.
5. **Strategies for Workforce Transition.** The GAO found that governments needed to develop strategies to help their workforces make the transition to a private sector environment. Examples given include involving employees in the privatization process, provide training to help prepare them for privatization, and create a safety net for displaced employees.
6. **Monitoring and Oversight.** Monitoring and oversight is needed that evaluates compliance with the terms of the privatization agreement and evaluates performance in delivering services.

The report also lists critical questions that state and local decisionmakers found useful when considering whether to privatize a government activity. Please refer to the report for these questions.

## **Common Sense Budget Reform For Missouri**

This report was an analysis of state government and to propose possible reforms to make it more efficient. The report was prepared in three parts. The first part focused on the budgeting process and dealt with proposed changes in how the budget is approved. The second part focused on specific budget items or opportunities. The third part was a review of two state agency's inventories and recommended how these agencies could save money by being more prudent in spending state resources.

Some recommendations of the report addressing competition/privatization included:

- Utilizing cost-benefit and sensitivity analysis as well as risk assessment;
- Rely more on independent audits and reviews in order to gauge improvement or regression;
- Take advantage of the benefits of leasing vs. buying property such as vehicles;
- Improve the way state employees receive cellular telephone service at state expense;

## **The State of Texas:**

The Texas Legislature created the Council on Competitive Government (CCG) in 1993. The purpose of the council is to review state services to identify the most cost-effective and efficient provider of these services. According to the CCG, the state of Texas has saved more than \$84 million from their efforts.

Once the CCG conducts its review of a state provided service, there are four possible outcomes:

1. To reengineer and reorganize services within the same agency or agencies
2. To reengineer and reorganize services to another agency or agencies.
3. To reassign services to the private sector.
4. To reassign services through a partnership between the public and private sectors.

The CCG states they explore “how different institutional arrangements, such as managed competition, outsourcing, reengineering and public/private partnerships can create incentives for efficiency, improve customer service, enhance accountability, and save taxpayer dollars.” The CCG states they have designed a process that assesses the cost and then compares them to external service providers. Based on the results of these comparisons, a decision is made on whether the service should remain in-house or be contracted out.

Some current examples of competitive initiative programs in Texas include:

- Vehicle Fleet Management. Reengineered improvements to the State’ plan.
- Certain child support payments are processed by a private company.
- Privatization of the collection of low dollar delinquent sales and franchise taxes.
- Privatization of the TxDOT vehicle parts warehouse in San Antonio and El Paso.
- Privatization of the Texas State Library and Archives Commission’s document destruction services (shredding).

The CCG also listed many functions of Texas government in which they have researched the possibilities of privatizing, but determined that there would not be enough savings to contract out the services. The CCG did, however, in some of these services, make recommendations to the agency for changes in their processes.

## **The Commonwealth of Virginia**

The Governor and the General Assembly enacted the Virginia Government Competition Act of 1995. This act created the Commonwealth Competition Council. The Council is a bipartisan, independent entity of state government consisting of ten members to search for long-term government solutions.

The view of the Council is that competition is better than monopoly, either public or private, and that numerous public benefits result from competition, including reduction in delivery costs, improvements in service quality, and positive morale of public employees and managers. Both private companies as well as existing public employees are allowed the opportunity to prove that they are better, cheaper and faster.

The Commonwealth Competition Council sees their functions to be:

- Determine what areas of government can be provided by the private sector;
- Develop areas for internal competition in government;
- Conduct feasibility studies; cost benefit analyses; and public/private performance analyses; and
- Seek, evaluate and recommend effective public-private partnerships.

Some recent examples of competitive initiative programs completed in Virginia include:

- Sale of Virginia Education Loan Authority assets to a private loan servicing firm.
- Private management of roadside rest areas.
- Privatization of child support enforcement offices.
- Private operation of college bookstores.
- Privatization of student health services.

The Commonwealth Competition Council listed various techniques that can be used in the privatization process. They include

- Asset sales;
- Contracting out;
- Public-private partnerships;
- Franchise; service shedding;
- Vouchers; grants; subsidies; donations;
- Volunteerism; deregulation;
- Long-term leases; sale and leaseback;
- Build-operate-transfer.

The Council solicits recommendations and ideas from the general public regarding competition.

The Council developed the following process to guide agencies and institutions in reaching

appropriate competitive decisions.

#### Step One: Input

The government gathers information from various sources, including business interests, government employees and the general public. The task is to develop an inventory of opportunities. Questions must be answered, such as:

Which programs might be opened to competition?

Who might the competition be? and

Is the service a core function that should only be provided by the government?

#### Step Two: Selection Analysis

Performance analysis is undergone to determine whether a function, operation, activity or service should undergo competition with the private sector. If competition is recommended, formal publicly solicited proposals and bids are used to determine final decisions. Virginia uses the model “COMPETE” to allocate the total cost to a service which is then used in the evaluation process. The feasibility of competitive sourcing is determined by subjecting these opportunities to a business analysis in order to determine the best course of action.

#### Step Three: Competition

The next step is to select the appropriate form of procurement. This raises questions such as;

- What exactly is to be competed for?
- Who will be allowed to compete?
- What is the basis on which the competitors will compete?
- How often will the competition take place?

From these questions (and others), the state will follow procurement procedures to receive bids from private companies as well as existing government employees.

#### Step Four: Evaluation and Contract Award

The state performs a cost comparison on each business or government work force submitting a proposal and awards the contract to the best proposal. The contract must be clear, and all its terms defined....make no assumptions.

#### Step Five: Monitor

The government should establish and implement a contract quality

assurance program. Quality control is the contractor's responsibility, but quality assurance is the government's responsibility.

## The State of Michigan

In 1992, the Public-Private Partnership Commission submitted a report to then Governor John Engler, outlining the results of their study regarding the role of Michigan government. Their original focus specifically addressed the potential privatization of many state functions. However, the focus was broadened to encompass a comprehensive analysis of every activity and every program in State government, including those functions that have already been privatized. This process utilized the acronym PERM, because the analysis of each service or activity of the state should be completed and result in either Privatization, Elimination, Retention, or Modification.

The report called on the Governor to establish the order and time frames for state agencies to perform the PERM analysis on their individual activities/services. The analysis can be done for a single activity, a group of activities within a single program or a group of activities from different programs within a department. There are three parts to this analysis:

- Program/activity identification and history, which provides information regarding;
  - The program area and each activity being analyzed;
  - the history of the program and the activity;
  - the factors which caused the state to become involved in the activity;
  - whether circumstances have changed which mitigate for or against a change in the state's involvement;
  - track the increase or decrease of State responsibility in this area based on statutory or other changes initiated since the State originally became involved;
  - the objectives of the activity;
  - the results achieved by the activity; and
  - whether this activity is one that only the State should perform.
- Activity privatization, elimination, retention or modification analysis, provides details such as;
  - a quantitative assessment of the problem addressed;
  - results expected and the time needed to achieve those results;
  - effect on other activities or programs;
  - resolution of pending or potential issues (legal, liability, confidentiality, etc.);
  - various contracting issues, including monitoring;
  - the agency's implementation plan;
  - how the agency proposes to assure that current state employees have an opportunity to bid in the case of privatization;
  - how the agency proposes to assure that MBE/WBE have an opportunity to bid;
  - information about similar activities privatized, eliminated or modified in other states and how the agency proposes to avoid any problems experienced by that state; and
  - the steps which will be required should the State have to change vendors or resume this activity in the future.
- Activity cost analysis, which would provide the cost analysis data related to the proposed



disposition of the activity being analyzed, and provide the basis for a final disposition recommendation. A key portion is the determination of the true cost (both direct and indirect) to the government providing the service/activity.

The commission provided a program/activity analysis chart which shows the analysis that was recommended to be performed.

1. Identify potential program/activity to be analyzed;
2. Perform PERM analysis
3. Decide if privatization, elimination, retention or modification is appropriate;
4. Submit findings to appropriate authority for discussion and review. If concur, go to step 5, if not, negotiate and go back to step 3;
5. Implement based upon disposition decision;
6. Monitor and evaluate.

The report listed a range of alternative relationships between the public sector and the private sector that represent varying degrees of privatization. The transfer of an activity from a higher number category to a lower number category is a step closer to privatization. These include:

7. Market; Voluntary; Self-Service
8. Franchise
9. Voucher
10. Grant
11. Contract
12. Government Vending
13. Intergovernmental agreement
14. Government Service

Source: P.E.R.M: Recommendations to the Governor on Improving Service Delivery and Increasing Efficiency in State Government by the Michigan Public-Private Partnership Commission.

## The State Auditor

The State Auditor (SAU) issued a report Consulting and other Service Contracts, on February 6, 2002. The Office of the State Auditor conducted a review of 63 sample contracts that were in effect during the time period of July 1, 1998 to June 30, 2000. The SAU reported that services were delivered according to the contract in most of the contracts reviewed. However, a few examples were noted where agencies did not follow OA-Division of Purchasing and Materials Management guidelines. Issues that may be relevant to privatization are;

1. The intended services provided did not match the intended outcome. This resulted from the department changing the specifications of the contract informally (no written documentation or formal contract amendments). The department stated that many of the agreed-upon goals of the contract were met, even though they were not documented in the contract.
2. A contract was fulfilled for a contractor to provide a product to the state of Missouri. However, this product was never utilized or implemented by the state, since this would require additional funds that were not appropriated for that purpose.
3. “Weaknesses” were attributed to other contracts sampled, including;
  - Divisions contracting for amounts larger than they were authorized. OA-DPMM allows some agencies to perform their own bid and procurement if the goods and/or services are less than \$25,000.
  - Divisions not soliciting enough bids for the process to be deemed competitive.
  - Certain contracts had questionable payment provisions; and
  - Discrepancies existed between the contract and the pricing page regarding renewals.

STATE OF MISSOURI

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COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

September 18, 2003

Dear Agency Director:

Truly Agreed to and Finally Passed Senate Concurrent Resolution 13 from the 2003 Legislative Session established a Subcommittee on Competition and Privatization within the Joint Committee on Legislative Research. This subcommittee's focus is to identify ways to reduce costs to state government as well as to increase quality of state services to the citizens of the state. To that end, the subcommittee is to perform both a competition review and privatization review and make recommendations based on its findings.

In order to understand what efforts state agencies have already put towards competition and privatization, the Oversight Division is sending this letter to all state government departments. Below are three questions that will assist us in gathering information to present to the subcommittee.

1. What function(s), if any, has your agency successfully privatized?
2. What function(s), if any, has your agency attempted to privatize, but did not complete? What were the obstacles of reaching your goal?
3. Are there any state or federal statutory restrictions that would prevent your agency from privatizing certain functions.

Answers to these questions will be very helpful in presenting information to the new subcommittee regarding the success stories of Missouri state government privatization attempts as well as potential pitfalls to avoid in any future attempts. In order to assemble information for the first scheduled meeting of this subcommittee on October 1<sup>st</sup>, please respond to the questions no later than Thursday, September 25<sup>th</sup>.

If you have any questions, please feel free to call me at 751-4143.

Sincerely,

A handwritten signature in cursive script that reads "Mickey Wilson".

Mickey Wilson, CPA  
Director  
Oversight Division

## Privatization Survey

Updated November 7, 2003

The Oversight Division submitted three questions regarding privatization to all of the Missouri state agencies. Below are the questions, as well as the responses that Oversight has received.

### Question 1: **What function(s), if any, has your agency successfully privatized?**

Responses:

Department of Transportation - listed 18 activities that they have successfully privatized, including geotechnical services, programmetry and environmental services, Right of Way fee appraisals, Information Systems application development, Information Systems hardware installations/support, asphalt paving, concrete pavement repair, repair of concrete curbs, gutters and islands, repair of paved ditches and slope protection, mowing, mud-jacking, crack sealing, fence repair, erosion and slide repair, sign replacement, building custodial and major repair of facilities.

Department of Higher Education - Student loan processing services, default prevention activities, data analysis/research, collection services.

Department of Conservation - janitorial functions of the Central Office.

Office of State Courts Administrator - "treatment services in drug courts and transcripts"

Department of Public Safety - Capitol Police had contracted for the security of the buildings, but this was discontinued at the end of last fiscal years.

Department of Health and Senior Services - listed several programs outsourced to the private sector, including Banking services for WIC and Farmer's Market Nutrition Program, TEL-LINK, Service Coordination for Children with Special Health Care Needs, HIV Case Management and Fiscal administration of HIV client services. DOHSS also listed functions that were outsourced to other public agencies, including Behavioral Risk Factor Surveillance System, Cancer Registry Surveillance Activities, Service Coordination Head Injury, Sanitation inspections of child day care facilities, Data entry of health manpower surveys, Sanitation portion of initial and annual inspection of all licensed child care providers, and Technical assistance and training to long-term care facilities.

Department of Corrections - DOC has successfully privatized all medical and mental health services for inmates and some substance abuse treatment services. DOC began contracting for these services in FY 1992 and has seen a significant improvement in

## **Privatization Survey**

Updated November 7, 2003

inmate healthcare. DOC has also contracted out the function of reporting for a significant portion of probation and parole minimum supervision cases in October, 2002. The contractor developed an automated telephonic reporting system that is paid for by the offender and that provides expanded communications and more efficient reporting.

Office of Administration - Division of Facilities Management - state they have successfully privatized janitorial services, security, mechanical equipment, repairs and space modifications and other technical and consulting services.

Office of Administration - Division of General Services - state they have successfully privatized vehicle maintenance, state printing, loss control/safety, medical review, and claims administration, Nurse Case Management, PPO Network, and Investigative Services.

Office of Administration - Division of Information Services - state they currently contract out data and voice circuits. Also contracted out are some of the network management for some telecom services, such as wide area network surveillance.

Office of Administration - Division of Accounting - state they have successfully privatized the State Employees Deferred Compensation Plan, the State Employees Cafeteria Plan, State Employees Voluntary Life Insurance Plan, State Purchasing Card Program, State Travel Card Program, and the Statewide audit and recovery of overpayments of state vendors and providers.

Office of Administration - Division of Personnel - state they have contracted out for roughly 10 to 15 percent of training programs to private contractors.

Office of Administration - Division of Design and Construction - state they have privatized the design of projects generally over \$250,000.

Missouri Consolidated Health Care Plan (MCHCP) - state they contract with private insurance companies to administer medical, dental, vision, pharmacy, and employee assistance benefits. In addition, MCHCP has contracted for actuarial, consulting and medical review services.

Department of Revenue - DOR listed several functions that are privatized, including, Maintenance of select technology hardware products such as network equipment and telecommunications services and support, Motor vehicle and driver licensing through fee agent contracts, Collection of debt through collection agencies, prosecuting attorneys, and third party vendors, Child support, Destruction of confidential records, and more.

## Privatization Survey

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Department of Labor and Industrial Relations - Division of Workers' Compensation - occasionally will use contract court reporters, however the division does not prefer to utilize outside vendors.

Department of Labor and Industrial Relations - Governor's Council on Disability - has contracted out their short-term equipment loan program to Rockhurst University. The division has also established "comprehensive adaptive equipment contracts, through competitive bidding, to deliver adaptive telecommunications equipment directly to eligible consumers in Missouri."

Department of Insurance - has privatized producer licensing exam testing. The contractor is responsible for collection of fees, administering exams, and reporting of result to the department.

Department of Mental Health - Division of Mental Retardation and Development Disabilities (MRDD) - Purchased treatment and habilitation services: The Division of MRDD is currently serving fewer people in State operated ICFs/MR than in the 1980s and early 1990s. Today, fewer persons receive direct services other than assessment, case management and crisis intervention services from MRDD Regional Centers. Residential services and other support services that Regional Centers provided directly in the 1970s and 1980s are now purchased from a variety of community contract providers. The Division has over 2,000 contracts with community providers to deliver services that it otherwise would provide in State owned facilities by State employees. The MRDD provider network includes local governmental entities, not-for-profit entities, and private for profit entities.

### Department of Mental Health - Division of Comprehensive Psychiatric Services (CPS)

- In the mid-1990s, the Division successfully privatized 5 state-operated and funded Community Mental Health Centers.
- Some state operated and funded inpatient facilities have privatized specific services they previously provided as follows:
  - Laboratory services at Southeast Missouri MHC, Fulton State Hospital, Northwest Missouri PRD, and Southwest Missouri PRC
  - X-ray services at St. Louis PRC, Southwest Missouri PRC, and Metropolitan St. Louis PRC
  - Pharmacy services at Mid-Missouri MHC, St. Louis PRC, Metropolitan St. Louis PRC and Southwest Missouri PRC
  - Dental Services at Southeast Missouri MHC and Southwest Missouri PRC
  - Barber and Beautician services at Metropolitan St. Louis PRC
  - Medical Psychiatric Transcriptions at Southeast Missouri MCH and

## Privatization Survey

Updated November 7, 2003

- Metropolitan St. Louis PRC
- Physical Therapy at Southeast Missouri MHC and Northwest Missouri PRC
- Case management of consumers in residential facilities at Fulton State Hospital and St. Louis PRC
- Psychiatrist services at Cottonwood Residential Treatment Center
- Also, all outpatient programs operated by inpatient facilities have been privatized and services provided by Community Mental Health Centers.
- 

### Department of Mental Health - Other Considerations (MRDD) -

- Targeted Case Management - The Division of MRDD employs case managers who log services they provide to consumers. Those services that are reimbursable by Medicaid as “targeted case management” when provided to persons, who are Medicaid eligible, are billed to Medicaid MRDD collects the 60% federal share.
- MRDD has legislative authority to use the returned federal share to fund services. Since our case managers are state employees, their cost is used to “certify” the state share. This means we do not currently have to send the 40% state share to Medicaid to cover the cost of targeted case management services that are provided. However, if case management services were privatized, a private employer could not certify the match. Only public entities can certify match. MRDD would need an appropriation to cover the state match portion. In addition, the federal share would not be coming back to the MRDD so increased appropriation for services would also be needed.
- 

Department of Mental Health - Other Considerations (CPS) - The Division is currently in the process of reviewing the possibility of privatizing state operated and funded “scattered site group homes”. These homes would continue to be funded by the Division, however the treatment and oversight responsibilities would be provided by community based service providers.

Agencies not responding to our request include the Departments of Economic Development, Social Services, Elementary and Secondary Education, Natural Resources and Agriculture as well as the Attorney General’s Office, MOSERS, State Public Defender, Missouri Lottery Commission and the Missouri Gaming Commission.

Question 2: **What function(s), if any, has your agency attempted to privatize, but did not complete? What were the obstacles of reaching your goal?**

## Privatization Survey

Updated November 7, 2003

### Responses:

Department of Transportation - state they “in sourced” the District Office Web Sites to consolidate and get a common “look” and “feel” across the agency. DHT state they are currently in the process of evaluating the outsourcing of the Motorist Assist Program.

Department of Higher Education - “none”

Department of Conservation - “none”

Office of State Courts Administrator - “none”

Department of Public Safety - Not addressed

Department of Health and Senior Services - “none”

Department of Corrections - none

Office of Administration - Administrative Hearing Commission state obtaining legal assistance from non-AHC attorneys has not worked. The obstacles include the need for a high level of expertise in administrative law, a potential conflict of interest, the hourly rate for private attorneys is high and the quality of work received was poor.

Office of Administration - Design and Construction state they have tried to privatize the design of small projects (under \$250,000 in construction costs) without much success. The obstacle given was that private consultants just aren’t cost effective on the design of small projects.

Office of Administration - various other divisions stated there were no failed attempts to privatize.

Missouri Consolidated Health Care Plan (MCHCP) - none

Department of Revenue - did not list a specific failed privatization attempt.

Department of Labor and Industrial Relations - Human Rights Commission (MHRC) - state there have been two functions they have tried to privatize, *Case Reduction Project* and *Contractual Hearing Examiners Project* which did not



## Privatization Survey

Updated November 7, 2003

work. Various reasons given included a high rejection rate and staff time and effort had to be utilized to make up for the deficiencies in quality, the pool of attorneys having this expertise is limited, and a high turnover of contractors.

Department of Insurance - none

Department of Mental Health - none

Agencies not responding to our request include the Departments of Economic Development, Social Services, Elementary and Secondary Education, Natural Resources and Agriculture as well as the Attorney General's Office, MOSERS, State Public Defender, Missouri Lottery Commission and the Missouri Gaming Commission.

Question 3: **Are there any state or federal statutory restrictions that would prevent your agency from privatizing certain functions?**

Responses:

Department of Transportation - "None at this time"

Department of Higher Education - "The Missouri Student Loan Group is largely governed by federal laws that may prevent certain functions from being privatized.

Department of Conservation - "Not to our knowledge"

Office of State Courts Administrator - "Yes"

Department of Public Safety - Not addressed

Department of Health and Senior Services - "Yes, Protecting the health of the public is a fundamental responsibility of government. The preservation of the public health is one of the duties entrusted upon the state as a sovereign power and cannot be successfully refuted or delegated. It would not be appropriate to privatize core services of inspections/regulation, disease investigation, and surveillance. This is due to the fact that we may need to enforce governmental powers of quarantine, isolation, or embargo." DHSS goes on to list sections of Missouri statutes that restrict the functions that could be privatized for the State Public Health Laboratory and the Division of Senior Services and Regulation.

## **Privatization Survey**

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Department of Corrections - Does not appear to be any state or federal statutory restrictions.

Office of Administration - Division of Purchasing and Materials Management listed statute references that specify their division's responsibilities.

Office of Administration - Administrative Hearing Commission - Based on numerous statutory references, the review and decision-making functions cannot be privatized.

Office of Administration - Division of Design and Construction - Design-Build, a privatized delivery system that combines both design and construction into a single package, is not allowed by statutes.

Office of Administration - various other divisions stated there were no restrictions.

Missouri Consolidated Health Care Plan (MCHCP) - stated there are functions that could not be privatized, specifically those entrusted specifically to the Board of Trustees. Chief among these are their fiduciary duties in regard to the Trust fund, the establishment of policies and regulations concerning the operations of the fund, and the awarding of contracts.

Department of Revenue - Without specific statutory authority, agencies do not have the ability to enter into performance based or contingency based arrangements with contractors. This limits the ability to privatize.

Department of Labor and Industrial Relations (DOLIR) - Various divisions within DOLIR state that since many of their programs are at least partially federally funded, the ability to privatize is limited. Divisions within DOLIR also state that state statute provide for specific enforcement authority on their agency. That authority is specifically conferred on state agencies and not private individual or contractors.

Department of Insurance - No state or federal restrictions. However, if the department contracted out the regulation of the insurance industry, the state could be liable if the contractor did not fulfill their requirements to enforce regulations.

Department of Mental Health - Division of Mental Retardation and Development Disabilities (MRDD)

## Privatization Survey

Updated November 7, 2003

- Section 633.105 RSMo. “The regional centers shall be the entry and exit points in each region responsible for securing comprehensive mental retardation and developmental disability services for clients of the department.” Statute change to allow other entities to become the entry and exit point in each region.
- 9 CSR 10-1.010(4) (C)...The regional centers, the primary points of entry into the system, provide assessment and case management services. The centers also provide oversight for and quality enhancement support for programs/services funded by the division.
- 9 CSR 45-2.010 Eligibility (1) (G) Expedite and facilitate eligibility determination by...Regional centers are responsible for determining eligibility for services in an eligible individual’s IHP or IHP amendment before the services are authorized, delivered or purchased.

Agencies not responding to our request include the Departments of Economic Development, Social Services, Elementary and Secondary Education, Natural Resources and Agriculture as well as the Attorney General’s Office, MOSERS, State Public Defender, Missouri Lottery Commission and the Missouri Gaming Commission.

STATE OF MISSOURI

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COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

January 7, 2004

Dear Agency Director:

This past fall the Oversight Division requested information from your agency concerning what functions your agency has successfully privatized and what attempts were not successfully privatized and why. The responses that Oversight has received have been very informative and insightful.

As a follow-up to those questions, the Subcommittee on Competition and Privatization is seeking additional information concerning your agencies process of privatization and competition.

1. Does your agency have any written procedures for the process of determining how a service would be considered for privatization and/or competition?
2. What is your agencies decision process for privatization?
3. What are your agencies strengths and weaknesses in this process?
4. What would you change about the process and why?

Your agencies answers to these questions will be helpful to the Subcommittee at their next meeting in early March. In order to assemble information for this meeting, please respond no later than Friday, February 20, 2004.

If you have any questions, please feel free to contact me at 751-4143. Your help in this matter is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Mickey Wilson".

Mickey Wilson, CPA  
Director - Oversight Division

**Subcommittee on Competition and Privatization**  
**Privatization Survey Follow-Up**  
**As of February 24, 2004**

	Does your agency have any written procedures for the process of determining how a service would be considered for privatization and/or competition?	What is your agency's decision process for privatization?	What are your agency's strengths and weaknesses in this process?	What would you change about the process and why?
<b>Missouri Department of Transportation</b>	Yes. MoDOT has developed a three phase process for determining the feasibility of outsourcing certain services.	<b>Phase 1</b> of the process requires the evaluation of the perception, availability, implementation, and mission-driven characteristics of the service. <b>Phase II</b> considers factors that would be relevant to the issuance of a Request for Proposal (RFP) for the service being considered for outsourcing, such as the scope of the work, potential vendors, pricing, information, etc.	MoDOT has performed extensive research and has developed a detailed process. However, the process has not been formally implemented in agency-wide policies and procedures.	MoDOT could improve the process by formalizing the process in agency-wide policies and procedures.
<b>Missouri Lottery</b>	The Lottery does not have written procedures for this review. We do however, periodically assess the internal costs of certain functions and compare them to known or estimated costs of privatization. To date, we have found no major functions that could be privatized with a resulting savings to the Lottery.	See answer to #1. In addition to a pure cost comparison we also make some determination as to what, if any, improvement/degradation in customer service and overall game sales would result from privatization with a resulting savings to the Lottery.	The Lottery's strength in this area is that we are a business operating in state government. The one true measurement of our success is the end of year bottom line profit which is transferred to education. Any and all cost savings and thus profit enhancement are given thorough review and consideration.	Nothing. We are already doing it.
<b>Missouri Department of Mental Health</b>	We do not have written procedures.	The Department continually looks for ways to improve operations and increase efficiency, which sometimes results in privatization of services. The Department assesses privatization opportunities as a part of our ongoing strategic planning process. When considering the privatization of services, the internal process begins with the responsible Division/Program performing research and analysis, which is presented to the Executive Team and Department Director. This analysis includes, but is not limited to, an evaluation of quality, efficacy, and impact. After review and approval by the Executive Team, the proposal is presented to the Mental Health Commission for further review and discussion.	Careful consideration is given to how privatization of services will impact our consumers and their families. When possible, we provide opportunities for input from consumers, parents, guardians, legislators, and stakeholders before final plans are made to privatize services. This process has worked well for the Dept. in the past and as such there are no known weaknesses.	We believe our process has worked well. However, we are open to suggestions to make process improvements that will assist us in future privatization decisions.

Subcommittee on Competition and Privatization  
Privatization Survey Follow-Up  
As of February 24, 2004

	Does your agency have any written procedures for the process of determining how a service would be considered for privatization and/or competition?	What is your agency's decision process for privatization?	What are your agency's strengths and weaknesses in this process?	What would you change about the process and why?
Office of Administration	<p>OA has a process for determining and analyzing a business function for possible outsourcing; however, there are no "written" procedures.</p>	<p>The OA executive team keeps abreast of business practices through professional conferences and informal communication with the vendor community. With this information, the team regularly discusses trends in privatization, what the agency is doing well, what it's not doing well and what functions should be considered for privatizing. It is not a singular point in time process, but a continual assessment.</p> <p>It is OA's practice to evaluate each opportunity and determine the most cost effective solution for the state; cost and productivity benchmarks are established and internal measures calculated. Internal numbers are compared to industry and local competitive standards and then further evaluated using qualitative measures such as customer satisfaction, quality, timeliness and control over process. In those instances where we believe a competitive service provider can provide an outsourced service that is generally less expensive and of higher quality than can be provided in-house, a Request for Proposal (RFP) is developed. This process has resulted in the outsourcing of a number of programs including deferred compensation administration, accounts payable auditing, janitorial services, mechanical equipment maintenance and security.</p> <p>OA's executive team has also established a number of project teams that, using the MRI (Missouri Results Initiatives) process, actively seek to improve</p>	<p><b>Strengths:</b> OA's current process is responsive to market changes and is not a burdensome bureaucratic process. We do a great deal of research into "best practices" and benchmarking to ensure that we are measuring up to services standards, including efficiency/productivity and quality of services.</p> <p><b>Weaknesses:</b> Some service components are easier to evaluate than others, and, while we have established a number of performance measures that effectively depict the overall strength of our service delivery, there still remain a number of measures where the calculation of comparative data is in question. It is often difficult to ensure that we are fairly comparing "apples to apples". The reduction in management staff due to budget cuts has negatively affected the agency's ability to fully evaluate programs and perform the desired level of quality control. Budget cuts have also limited access to conferences and subscriptions, thus impacting managers; exposure to current best practices and cutting edge business practices.</p>	<p>When funding allows, provide professional development training for managers so that they are current with the marketplace alternatives. Also, consider establishing a privatization council that would independently and fairly research and evaluate programs for privatization.</p> <p>This deliberative approach, used by a number of states for this purpose promotes privatization as an option but only when clearly the best option in the delivery of state services.</p>

Subcommittee on Competition and Privatization  
Privatization Survey Follow-Up  
As of February 24, 2004

	Does your agency have any written procedures for the process of determining how a service would be considered for privatization and/or competition?	What is your agency's decision process for privatization?	What are your agency's strengths and weaknesses in this process?	What would you change about the process and why?
Missouri Department of Social Services	No.	<p>Privatization opportunities are evaluated on a case by case basis as they are identified. Factors that may be considered include but are not limited to:</p> <ul style="list-style-type: none"> <li>- cost of the project</li> <li>- time needed to implement and time available to implement the project;</li> <li>- experience, skills and capabilities of existing state staff;</li> <li>- relevancy to the project to the core mission of the agency;</li> <li>- ability to monitor, control and or correct unsuccessful or unsatisfactory work by private vendor;</li> <li>- complexity of the project;</li> <li>- private sector expertise, experience and capacity to deliver the desired service;</li> <li>- availability of potential contractors to perform the work;</li> <li>- legal requirements, including legislative and/or appropriation intent.</li> </ul>	<p><b>Strengths:</b> Flexibility. DSS administers a very diverse set of programs. Factors strongly influencing a privatization decision for one program may not be critical for another. The circumstances surrounding each contracting decision are unique. These facts dictate that effective decision making processes will be open and flexible.</p> <p><b>Another strength</b> is that contracting decisions are vested primarily in the division managers who are ultimately responsible for the success of the programs under their charge.</p>	No changes desired.
Joint Committee on Public Employee Retirement	JCPER is a joint legislative committee with it's administrative functions directed by the Senate. Therefore, any privatization issues would be determined by our Senate and House Committee Members as well as the Senate administration.			
Missouri Department of Labor	See Attached			
Missouri Department of Health	See Attached Financial Policy Manual	Included in attachment.	Not included in response.	Not included in response.

Subcommittee on Competition and Privatization  
Privatization Survey Follow-Up  
As of February 24, 2004

	Does your agency have any written procedures for the process of determining how a service would be considered for privatization and/or competition?	What is your agency's decision process for privatization?	What are your agency's strengths and weaknesses in this process?	What would you change about the process and why?
Missouri Department of Revenue	No.	<p>The main tool is a cost/benefit analysis. The department staff attempts to quantify the cost to the department for the work to be done internally versus the cost of outsourcing.</p> <p>Other factors the department may consider, but are not readily quantifiable, are politically sensitive or highly confidential functions. Even though the cost/benefit analysis may show that it is cheaper for the department to outsource a function, these considerations may prevent the department from doing so.</p> <p>In addition, statutes and rules and regulations may be the deciding factor on whether a function can be outsourced. While the statute or rule may not explicitly state that the function cannot be outsourced, a law or rule may provide for a particular check or balance that makes it extremely difficult and/or expensive for an outside contractor to perform the function.</p> <p>Occasionally, to assist in the cost/benefit analysis, the department will bid the possible outsourced function to determine the cost of an outside contractor performing the services. If the department's in-house costs exceed the contractor's bid and other implications do not stop the outsourcing, the department will award the contract and outsource the function. After the award, department staff monitors the quality and cost of the contractor's service and compares historical in-house costs to the contractor's costs. If the contractor's costs are exceeding historical in-house costs, the dpt. will reverse its course and bring the function back in-house. The dept. attempts to continually evaluate the best and most cost effective way to serve the taxpayers of MO.</p>	<p>The department's decision process is decentralized, which may be considered either a strength or a weakness. Additionally, the department strives for an unbiased decision based on facts, rather than personal feelings or bias.</p>	<p>At this time, the department makes no recommendation for changes to the process.</p>



Subcommittee on Competition and Privatization  
Privatization Survey Follow-Up  
As of February 24, 2004

	Does your agency have any written procedures for the process of determining how a service would be considered for privatization and/or competition?	What is your agency's decision process for privatization?	What are your agency's strengths and weaknesses in this process?	What would you change about the process and why?
Missouri Department of Conservation	The MDC does not have a formal procedure for determining privatization of services but there is a recently completed program review of all programs to determine program effectiveness and efficiency. A component of that review was to determine if greater efficiency could be achieved through greater use of competitive private industry services. The MDC does rely on private industry for delivery of several of its programs such as our hunting and fishing permit point of sale system and construction projects.	The privatization decision process is as the local level. The competitive environment in private industry has demonstrated areas where private industry is more efficient such as in the areas of information technology and construction. The MDC has a mix of privatization and in house work. Privatization is mainly used where projects lead to inefficient use of MDC personnel.	<b>Strength:</b> Flexibility. Allowing projects to get done quicker by using privatization where needed. <b>Weakness:</b> Purchasing procedures that have to be followed in order to retain private firms to do the work that is needed.	Review the purchasing laws to make sure they are conducive to privatization.

## Department of Labor and Industrial Relations

**Does your agency have any written procedures for the process of determining how a service would be considered for privatization and/or competition?**

Director & Staff	Yes. The Department of Labor and Industrial Relations follows a competitive bid process as detailed in the "State of Missouri—Division of Purchasing and Material Management—Department Procurement Authority Delegation and Procedures." This is based on the Missouri Code of State Regulations at 1 CSR 40.
Division of Labor Standards	No. Federal programs are required to be handled by the state, and the Division's other programs are all enforcement programs, which are not appropriate for privatizing.
Board of Mediation	No. I inquired of the National Labor Relations Board in St. Louis to determine if they had any jurisdiction in the public employee arena. They are prohibited by law from conducting public sector unit determinations or elections.
Division of Workers' Compensation	No. The Division may contract court reporters in the event that there are no Division court reporters available to record and transcribe hearings. However, this is not desirable since the cost of contracted court reporters greatly exceeds the expense of existing court reporting personnel.
Division of Employment Security	Federal law prohibits the outsourcing of Unemployment Compensation (UC) administrative functions for those functions that are inherently governmental. Section 303(a)(1) of the Social Security Act states that as a condition of States receiving UC administrative grants from the federal government "such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to ensure full payment of unemployment compensation when due." [Emphasis added.] Outsourcing is further addressed in UIPL 12-01. (Attached)
Governor's Council on Disability	No.
MO Commission on Human Rights	No, however the Missouri Commission on Human Rights, an independent commission responsible for the agency, holds periodic strategic planning sessions and has considered privatization of agency functions during those sessions as well as at quarterly commission meetings.
Labor and Industrial Relations Council	No. The Commission does not have policy or procedure on privatization nor any experience with it.

## Department of Labor and Industrial Relations

### What is your agency's decision process for privatization?

Director & Staff	The awarding of bids to a private vendor is based on Missouri State Statue 34.040 RSMo. The process requires the department to solicit bids from available vendors through a request for proposal. Generally the regulation provides that the award be given to the "lowest and best" bid.
Division of Labor Standards	N/A
Board of Mediation	We are an agency created by Statute – See Chapter 295 RSMo 2000. Chapter 105 RSMo 2000 provides us with unit determination and election authority.
Division of Workers' Compensation	Since the primary purpose of the Division is to hold administrative hearings or adjudicate workers' compensation cases, investigate criminal workers' compensation violations, and regulate the self-insured employers, Division services are not suitable for privatization. In other words, these activities involve the state police powers clearly articulated in the U.S. Constitution as the province of state governments.
Division of Employment Security	See above
Governor's Council on Disability	We do not have developed process or policy. But if we did have a decision process, it would be based around cost savings.
MO Commission on Human Rights	Privatization plans would be submitted to the Missouri Commission on Human Rights for their feedback and approval. Staff would work in an interactive manner with the Commission in developing these plans. When appropriate the Division of Purchasing/ Office of Administration would be used to help develop and implement a Request For Proposal in order to assure that the entities who were picked for the privatization were the best qualified and most cost effective.
Labor and Industrial Relations Council	The only question to answer is what our agency's decision process for privatization - The Commission has decided not to seek privatization of any part of its process. This decision was based on the belief that if we contract out certain services, such as the writing of opinions, we loose control over the timeliness, quality, consistency, etc. of those decisions. Any financial benefit would be outweighed by the decline in quality service that has been provided by the LIRC.

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### What are your agency's strengths and weaknesses in this process?

Director & Staff	The Department of Labor and Industrial Relations does everything according to the Procurement Laws, regulations and procedures.
Division of Labor Standards	N/A
Board of Mediation	Our long history of unit determinations (since 1967) provides the labor law community with extensive information for use in current cases. We have an excellent working relationship with those in the labor law field.
Division of Workers' Compensation	N/A
Division of Employment Security	See above
Governor's Council on Disability	N/A
MO Commission on Human Rights	A key strength in the process is the fact that the agency is responsible to 11 private citizen Commissioners who represent the public interest and have a broad range of business and professional backgrounds. Given the agency's extremely limited resources these Commissioners have brought to the agency an important knowledge base from the private sector leading to a continuous process of reviewing agencies policies and practices to create greater efficiencies, including the issue of privatization. A key weakness has been that utilizing Division of Purchasing can result in implementation delays given their workload.
Labor and Industrial Relations Council	N/A

## Department of Labor and Industrial Relations

### What would you change about the process and why?

Director & Staff	It would seem beneficial for state agencies to have more authority in securing bids. The current process only allows agencies to solicit competitive bids for goods and services in the amount of \$25,000 and below. Items in excess of \$25,000 are processed through the Office of Administration. As a suggestion, perhaps the Office of Administration could handle items over \$50,000.
Division of Labor Standards	N/A
Board of Mediation	Our department lost an attorney last year. I believe that is going to slow our election process. I believe that will be unfair to public employees seeking representation.
Division of Workers' Compensation	N/A
Division of Employment Security	See above
Governor's Council on Disability	N/A
MO Commission on Human Rights	It would be very helpful to be able to expedite the process of developing Request for Proposals in order to be able to utilize the private section in a timelier manner.
Labor and Industrial Relations Council	N/A

## Department of Labor and Industrial Relations

UIPL 12-01 from Employment Security:

CLASSIFICATION

CORRESPONDENCE SYMBOL

ISSUE DATE

RESCISSIONS

EXPIRATION DATE

DIRECTIVE :

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : GRACE A. KILBANE  
Administrator  
Office of Workforce Security

SUBJECT : Outsourcing of Unemployment Compensation Administrative Functions

1. **Purpose.** To inform States of the Department of Labor's (Department) interpretation of Federal law concerning the "outsourcing" of unemployment compensation (UC) administrative functions.
2. **References.** Sections 303(a)(1), (3), and (8) of the Social Security Act (SSA); the Intergovernmental Personnel Act of 1970 (IPA); 5 U.S.C. Section 2301(b); 42 U.S.C. Sections 4701 and 4728; 5 CFR Sections 900.603, 900.604; 20 CFR Part 602; 20 CFR Section 652.3; 26 CFR Section 31-3306(i)-1; Office of Management and Budget (OMB) Circular No. A-76 (Revised) (48 Fed. Reg. 37110 (August 16, 1983); 64 Fed. Reg. 33927 (June 24, 1999)); OMB Office of Federal Procurement Policy (OFPP) Policy Letter No. 92-1 (57 Fed. Reg. 45096 (September 30, 1992)).

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3. **Background.** The Department has received numerous inquiries concerning the outsourcing (or contracting out) of functions related to the administration of the UC program. This UIPL is issued in response to these inquiries. As this issuance applies only to the outsourcing of UC administrative functions, it is not to be construed as applying to, permitting, or prohibiting the outsourcing of non-UC functions. Further, where outsourcing is permitted, this UIPL neither encourages nor discourages the outsourcing of UC administrative functions.

A longstanding tenet in the administration of public programs is the desirability of using merit systems. In the IPA, Congress declared that the quality of public service is maintained and improved by the development and maintenance of systems of personnel administration consistent with merit principles. (42 U.S.C. 4701.) A basic merit principle is that governmental employees are responsible to the public as represented by the elected officials who head the executive branch of government (for example, the President or Governor). A second merit principle is that public employees covered by a merit system are able to administer the law in an unbiased, professional manner without undue outside influence. Because many decisions made by public employees affect the rights and property of individuals, these decisions must be made in a fair and unbiased manner that is consistent with the rule and intent of the law.

Impartiality in administering the UC program is especially important because UC is a major economic stabilizer. It is often the only source of income during a worker's period of involuntary unemployment. Further, employers are charged for UC paid to their former employees. The lack of impartiality could lead to individuals being improperly paid or denied UC due to outside pressures. In addition, because employers' experience rates are calculated based on the payment of UC to their former workers, impartiality is needed to assure not only that eligibility is determined properly, but that charges to the employer are proper. For reasons such as these, Congress included a specific merit staffing requirement in Federal UC law. This requirement, and other Federal law requirements affecting outsourcing, are discussed below.

#### 4. Federal Requirements.

- a. Merit Staffing. Section 303(a)(1), SSA, contains the merit staffing requirement for the UC program. This section requires, as a condition of States receiving UC administrative grants, that State law include provision for:

(1) Such methods of administration (including after January 1, 1940, **methods relating to the establishment and maintenance of personnel standards on a merit basis**, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; [Emphasis added.]

Interpretive authority for this merit system requirement was transferred to the U.S. Office of Personnel Management (OPM) in 1970 by the IPA. (42 U.S.C. Section 4728.) However, the enforcement authority for this merit system requirement remains with the Department, and this requirement is a condition for receipt of UC administrative grants.

No specific merit system standards are contained in the SSA. Instead, Section 208(b) of the IPA assigns OPM responsibility for prescribing personnel standards that are to be followed by States which must operate merit-based personnel systems as a condition of eligibility for Federal assistance or participation in an intergovernmental program. OPM has implemented these standards at 5 CFR Section 900.603, and OPM, as explained more fully below, prohibits outsourcing of administrative functions in programs to

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which the standards apply if outsourcing would compromise these standards. Since Section 303(a)(1), SSA, conditions receipt of administrative grants on the provision of a merit system, 5 CFR Section 900.603 applies to the administration of the Federal-State UC program.

The merit system standards at 5 CFR Section 900.603 include: (1) the recruitment, selection, and advancement of employees on the basis of their relative ability, knowledge, and skills, including the open consideration of qualified applicants for initial appointment; (2) providing equitable and adequate compensation; (3) training employees, as needed, to assure high quality performance; (4) retaining employees on the basis of the adequacy of their performance; (5) assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens; and (6) assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or nomination for office.

- b. Guidance Pertaining to Outsourcing. In determining what functions may be outsourced in State offices where Federal merit-staffing requirements apply, States are to rely on guidance in OMB Circular No. A-76 (Revised) and OFPP Policy Letter 92-1. These documents offer guidance on what functions may be outsourced by the Federal government. While these issuances, by their terms, apply only to the Federal government, their guidance, combined with the merit system standards listed above, are considered to be persuasive concerning what functions a State may outsource under a program where a Federal merit-staffing requirement applies. Also, the Department values consistency between what functions may be outsourced by a State and what functions may be outsourced by the Federal Government, as it would be illogical to prohibit a State from outsourcing a function that the Federal Government is permitted to outsource. Therefore, these OMB issuances will also serve as the interpretative guides for the merit-staffing requirement of Section 303(a)(1), SSA, and the Secretary of Labor will use the guidance provided by these documents in determining whether outsourcing a UC administrative function is consistent with the merit system requirement under Section 303(a)(1), SSA, for purposes of certifying a State's law under the SSA.

These OMB issuances distinguish between "inherently governmental functions," which must be carried out by merit-staffed governmental employees and may not be outsourced, and "commercial activities," which may be outsourced. OPM directs Federal grantor agencies to use these two categories as a tool for determining whether a grant-recipient State may outsource a specific function. An "inherently governmental function" may not be outsourced as doing so would evade the merit requirements as non-governmental employees would be performing governmental functions.

OFPP Policy Letter 92-1 defines an inherently governmental function as a function "that is so intimately related to the public interest as to mandate performance by Government employees." Such functions include those activities that require "the exercise of discretion in applying Government authority or the making of value judgements in making decisions for the Government." An inherently governmental function involves, among other things, the interpretation and execution of law so as to: (1) bind the Government to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise; (2) determine, protect, and advance its economic, political, or property interests by civil or criminal judicial proceedings, contract management, or



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otherwise; (3) significantly affect the life or property of the individual; or (4) exert ultimate control over the acquisition, use, or disposition of the property of the Government, including the collection, control, or disbursement of appropriated or other funds.

According to OFPP Policy Letter 92-1, inherently governmental functions do not normally include gathering information for, or providing advice, opinions, recommendations, or ideas to, Government officials. They also do not include functions that are primarily ministerial and internal in nature, such as (but not limited to) building security, mail operations, housekeeping, or facilities operations and maintenance.<sup>(1)</sup>

Section 6(a) of OMB Circular No. A-76 (Revised) defines a commercial activity as one which is operated by an "executive agency and which provides a product or service which could be obtained from a commercial source. A commercial activity is not a Governmental function. . . . A commercial activity also may be part of an organization or a type of work that is separable from other functions or activities and is suitable for performance by contract." The application of this test is illustrated below in Section 5 of this directive.

- c. Additional Federal Law Requirements. Sections 303(a)(3) and (8), SSA, also contain requirements applicable to the outsourcing of UC activities. These sections require, as a condition of States receiving UC administrative grants, that State law include provision for:

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied;

\* \* \*

(8) . . . the expenditure of all moneys received pursuant to section 302 of this title solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of such State law;

Impartiality is explicit in the requirement of Section 303(a)(3), SSA, that individuals whose claims have been denied be given the opportunity for a fair hearing before an "impartial tribunal." Impartiality may be achieved only when the deciding official is free from partisan political purposes as required by the OPM regulations discussed in section 4.a. of this UIPL. The Department interprets this provision to have been met as long as the first level of appeal available to the individual is merit staffed.

The requirement of Section 303(a)(8), SSA, that amounts received for the administration of the UC program be used solely "in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of State law" also restricts outsourcing. Any moneys expended to outsource UC functions that are required to be merit staffed, or any moneys spent on outsourcing UC functions which could be performed more efficiently by governmental personnel, would not be necessary for the proper and efficient administration of the State's UC law.

## Department of Labor and Industrial Relations

Also, the "methods of administration" requirement of Section 303(a)(1), SSA, beyond the merit staffing requirement, is applicable here. The Department has interpreted Section 303(a)(1), SSA, as requiring that eligibility decisions be accurate. (See 20 CFR Part 602.) It follows that the individuals making these decisions must have the knowledge and training necessary to make the correct decisions. Advancement for UC administrative staff based on knowledge, and the provision of training for such staff as needed, are requirements found in the OPM regulations discussed in section 4.a. of this directive.

Finally, outsourcing is not permitted when it otherwise creates a conflict with Section 303(a)(1), SSA, or any other Federal law requirement. For example, Section 303(a)(1), SSA, is interpreted to require that States keep UC information with personal identifiers confidential. An outsourcing arrangement that jeopardizes the confidentiality of the UC information would be impermissible.

5. **Application of Federal Requirements.** This section indicates UC functions which may or may not be outsourced. The items identified in this discussion constitute some of the major functions involved in administering the UC program. It is not necessarily an exhaustive list of functions. For functions that are not identified or discussed in this program letter or its attachments, the Department, in consultation with OPM, will review and decide the permissibility of outsourcing on a case-by-case basis, applying the principles in this issuance.
  - a. **Functions Which May Not Be Outsourced.** Many functions relating to the UC program are inherently governmental and, therefore, may not be outsourced.

Determining whether to pay (or not pay) UC is an inherently governmental function. Because one of the major functions of the UC program is to act as an economic stabilizer, these decisions ultimately involve the interpretation and execution of law in a manner which affects general economic interests. In addition, decisions made by employees who administer the UC system bind the State government to make payments to individuals based on applicable law and regulation, significantly affect the life of the individual, and affect disbursement of unemployment funds with respect to the individual. These types of decisions are identified specifically in OMB Circular A-76 (Revised) and OFPP Policy Letter 92-1 as inherently governmental.

Whether an individual will receive UC is determined through a process which involves taking claims, determining the facts of the individual's situation, and if necessary, adjudicating issues and hearing and deciding first-level appeals. These three basic functions involved in determining eligibility for UC also are inherently governmental in nature, as they require the exercise of discretion in applying governmental authority.

Claims taking involves providing claimants with an understanding of their rights to UC and with advice concerning when to file as well as what type of claim to file (e.g., intrastate, interstate, or combined-wage). Discretion must be exercised as to what advice is given. Fact-finding is extremely dependent upon the exercise of discretion as it involves asking the necessary questions and establishing the proper facts in order to ensure that a correct eligibility determination be made.

The adjudication of issues cannot be conducted without the adjudicator exercising discretion in the interpretation of the State law. In response to our inquiry, which arose from a request for guidance concerning the merit system requirement as it related to appeals referees, OPM advised the Department that appeals referees must be covered by a merit system, meaning the position must be filled by a merit staffed government employee. This determination was based on the need to insulate hearing officers and adjudicators

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from political or other extraneous pressures. The need for this requirement is illustrated at the Federal level by the fact that Administrative Law Judges (ALJs) were specifically excluded from the Senior Executive Service (SES) at its creation, because the greatly relaxed merit staffing principles applied to members of the SES are not sufficient to assure the impartiality that is required of ALJs. Requiring adjudicators to be merit-staffed governmental employees is necessary to meet the impartial hearing requirement of Section 303(a)(3), SSA.

While the management of the Unemployment Trust Fund (UTF) is primarily a function of the United States Treasury, each State manages the clearing and benefit payment accounts in the State's unemployment fund. As stated in section 4.b of this directive and in OFPP Policy Letter 92-1, inherently governmental functions include all those where the individual interprets or executes the law so as to "exert ultimate control over the acquisition, use, or disposition of the property of the Government, including the collection, control, or disbursement of appropriated or other funds." Section 6(e)(2) of OMB Circular No. A-76 (Revised) specifically defines monetary transactions and entitlement, such as tax collection and revenue disbursements, control of the treasury accounts and money supply, and the administration of public trusts, as inherently governmental functions. As such, they must be performed by merit-staffed governmental employees.

Determination of employer liability and experience rates are also inherently governmental functions. To determine an employer's experience rate, determinations have to be made concerning noncharging of benefits paid (if allowed under the State law), determinations of successions, rate transfers, and whether penalty rates will be used. Employer monetary liability also includes determinations about whether to assess penalties and interest. Because these decisions have an affect on the amount owed by an employer, they have the potential to significantly affect the property of an individual. Decisions concerning coverage determine the employers who are liable for contributions and workers who accrue benefit rights under State law, and as such, significantly affect the property of individuals. For these reasons, all these functions must be performed by merit-staffed governmental employees.

Most aspects of the collection of contributions also must be performed by governmental employees. OMB Circular No. A-76 (Revised) specifically identifies monetary transactions and entitlement, such as tax collection and revenue distribution, as "functions so intimately related to the public interest as to mandate performance by governmental employees." Therefore, with the exception of the functions described in section 5.b of this directive, which follows, the functions involved in the collection of contributions must be performed by merit-staffed governmental employees.

- b. Functions for Which Outsourcing is Permitted. As noted in Section 4.b of this directive, for purposes of the merit system provisions of Section 303(a)(1), SSA, based on OPM's guidance, if a function may be outsourced by the Federal government, it may be outsourced by State governments, if it also does not conflict with State or other Federal law. We note, however, that further limitations on outsourcing, even where it otherwise would be permitted, are explained below in Sections 5.c and 5.d of this directive. The following discussion of permissible outsourcing is illustrative of the types of functions which may be outsourced and is not an exhaustive list of such functions.

One aspect of functions related to the collection of contributions where merit staffing is not required is the collection of >delinquent contributions which have been determined to be uncollectible by the State agency. In the case of such delinquent contributions, the

## Department of Labor and Industrial Relations

determination as to the amount owed and the propriety of the decision already have been made by governmental employees. Moreover, the governmental agency will have taken all the actions required by law to collect the contributions due.

The requirement, discussed in section 5.a of this directive, that only merit-staffed governmental employees may collect, control, or disburse funds does not prohibit the use of commercial banks as depositories for clearing and benefit payment accounts, provided that the decisions concerning those accounts (that is, when checks are written, the amount of money to be transferred or drawn down from the UTF, etc.) are made by merit-staffed governmental employees. These banking functions are ministerial in nature and, therefore, are not required to be merit-staffed. Similarly, States are not prohibited from using a commercial bank as the collection point for contributions (that is, a clearing account) because lockbox collection functions are ministerial functions as they involve no judgement.

Audits do not have to be performed by governmental employees. OMB Circular A-76 (Revised) specifically identifies financial auditing as an example of a commercial activity. Because this function involves the gathering of information rather than the determination of liability, the function may be outsourced if doing so is not inconsistent with State and Federal laws relating to procurement of services. The basic UC tax audit function, as well as certain program audit functions (such as workload validation) may be outsourced, to the extent they do not involve the exercise of discretion in applying governmental authority, but rather, involve only the investigation and verification of past actions taken by governmental or contract employees. (See section 5.c of this directive for additional discussion.)

Automated data processing (ADP) functions also are identified in OMB Circular A-76 (Revised) as commercial activities that may be outsourced. ADP functions do not require the use of discretion in applying governmental authority, nor do they impact the decisions concerning whether or not an individual is eligible to receive UC. Therefore, ADP functions may be outsourced.

In all cases where outsourcing is contemplated, safeguards must be in place to ensure that any confidential data available to the contractor is not disclosed. Otherwise, outsourcing would not be appropriate, as it would be inconsistent with the confidentiality requirements of Section 303(a)(1), SSA.

- c. **Determinations Concerning Outsourcing Must be Based on the Function, Not the Title of the Position to be Outsourced.** The Department recognizes that many UC staff positions entail the performance of multiple functions. A given UC staff position may include some duties that must be performed by merit-staffed governmental personnel, and some duties that may be outsourced. A decision as to whether it is permissible and/or appropriate to outsource an activity must be made by determining the function(s) performed, and must not be based on the title of the position charged with performing the function(s). If the function involves the application of governmental authority, it may not be outsourced, even if the title of the position suggests the absence of governmental authority. For example, as is usually the case for UC field audits, determining when audits are to be performed and decisions made as a result of the audit (for example, whether the employer owes back taxes, determinations of coverage, etc.) are inherently governmental functions that are an integral part of the UC audit function. Therefore, if auditors have the responsibility for making determinations of monetary liability or coverage decisions based on their audit findings, as is normally the case with tax auditors and in the various quality control programs, the auditors must be merit-staffed governmental employees and not contractors. If the

## Department of Labor and Industrial Relations

ministerial functions can be separated out from the inherently governmental functions, the ministerial functions may be outsourced. However, a legal prerequisite still applies, as explained in section 5.d.2 of this directive, that doing so must not be less cost effective than having the entire function performed by merit-staffed governmental employees.

When deciding whether to outsource a position, States first should determine whether any inherently governmental functions are included in the duties of the position. If inherently governmental functions are included in the duties of the position, and they cannot be separated from the other function(s) to be performed, the position must be filled by a merit-staffed, governmental employee. If the inherently governmental function(s) can be separated from the position, and performed by merit-staffed governmental employees, then the rest of the function which is not inherently governmental may be outsourced, provided all other requirements for outsourcing are met. The Department will advise States on a case-by-case basis when requested to do so or when issues are identified regarding the outsourcing of specific functions and positions.

- d. Further Limitations on Outsourcing. The above discussions of outsourcing relate to whether a particular function may be outsourced. However, other factors must be taken into account before outsourcing the function is permissible. These factors relate to whether a **de facto** employer-employee relationship exists between a contractor and governmental employees, and whether the government can perform the function in a more cost effective manner than a contractor.

(1) Functions, even if commercial activities, may not be outsourced if doing so would create an employer-employee relationship between government and contract employees. As noted above, commercial activities may be outsourced. However, even if a function is deemed to be a commercial activity, its outsourcing is impermissible if it creates a **de facto** employer-employee relationship between government and contract employees. A **de facto** employer-employee relationship, where contract employees are under the direction, supervision, and evaluation of government employees, but without merit system protections, would circumvent the Federal merit system requirements. In this case, the **de facto** employer-employee relationship would serve to achieve in a backhanded manner that which could not be achieved otherwise: performance of the work by **de facto** government employees **without** merit system protections. This would undermine the very basis for requiring merit system protections in the first place, and is, therefore, impermissible.

Conversely, under no circumstances may governmental employees be under the direction and control of contract employees. If governmental employees are subject to direction, supervision, and evaluation by contract personnel, the chain of governmental responsibility to the public would be broken. In this case, the contractor, who is not accountable to the public, would exert major influence over the employees, rather than government officials who are directly accountable to the public.

OPM has advised the Department that the existence of a **de facto** employer-employee relationship, in the context of government contractors, is determined under the Federal common law test (as opposed to the State law tests) for determining the existence of an employer-employee relationship. The determination whether an employer-employee relationship exists must be made on a case-by-case basis. Federal regulations defining the employer-employee relationship are found at 26 CFR Section 31.3306(i)-1.

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(2) Functions, even if commercial activities, may not be outsourced if they can be performed in a more cost effective manner by the government. As noted above, Section 303(a)(8), SSA, requires that a State's law provide for the expenditure of all moneys received by the State under Section 302, SSA, "solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration" of the State's UC law. If a UC function can be performed more efficiently and cost effectively by the Government than by a contractor, outsourcing of the function, even if it is a commercial activity, would be inconsistent with Section 303(a)(8), SSA, as it would not constitute "efficient administration" of the State's UC law.

(3) Outsourcing may not be used to circumvent personnel or salary ceilings. OMB Circular A-76 (Revised) states that the circular shall not be used to justify the outsourcing of functions solely to avoid personnel ceilings or salary limitations. In applying this principle to the States, if such ceilings or limitations exist, granted funds must be used in a manner consistent with the ceilings or limitations in order to insure the "proper administration" of the State's law under Section 303(a)(8), SSA.

6. **Frequently Asked Questions.** While developing this directive, the Department received several questions concerning its contents. The following Questions and Answers respond to questions which have not already been addressed.

**Q** States frequently hire additional staff to handle temporary workload increases. These staff are let go when the workload decreases. In some cases, these staff may be retirees who return to work. Are these actions inconsistent with merit-staffing?

**A** The Department recognizes that it is necessary on occasion to bring on temporary employees to handle temporary workload increases. To ensure that these temporary employees are competent to perform the tasks for which they are hired, they must have been hired through a merit system. If a retiree was hired and trained under a merit system in the first place, the merit system requirement is maintained. No issue is created when these temporary employees are laid-off due to a workload reduction.

**Q** Members of Boards of Review which administer the second level of appeals are not required to be merit-staffed. Why is this so? May the higher appeals authority be outsourced?

**A** The higher appeals authority may not be outsourced as it performs an inherently governmental function that requires discretion in applying Government authority or the making of value judgements in making decisions for the Government. However, the Department has long held that Boards of Review need not be merit-staffed. Boards exist to provide an independent analysis of, and ensure consistency of, first-level appeals decisions. Board members typically represent both employer and employee interests and as such are chosen for their representation of those groups. This position was stated as early as 1963 in Section 0595(B), Part I, of the >Employment Security Manual. (This section is now obsolete.)

7. **Action Required.** Administrators are requested to provide this information to the appropriate staff. States should take appropriate action to assure that they meet the requirements of Federal law as explained by this UIPL.

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8. **Inquiries.** Questions concerning the outsourcing of UC functions should be directed to the appropriate Regional Office.
9. **Attachments.** OMB Circular No. A-76 (Revised) and OFPP Policy Letter 92-1.

1. Much of the guidance on inherently governmental functions contained in OFPP Policy letter 92-1 was codified in the Federal Activities Inventory Reform (FAIR) Act at FAIR Act §5(2). However, OPM has advised the Department that because the FAIR Act only codified-and did >not modify-the guidance in OMB Circular A-76 (Revised) and OFPP Policy Letter 92-1, OPM's analysis has not changed.

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<i>Revised Date:</i> 02-13-04	

## **COST CONSIDERATIONS OF OUTSOURCING DEPARTMENT FUNCTIONS**

### **I. PURPOSE:**

The Department will outsource departmental services only when it is cost effective and in the best interests of our customers to do so.

### **II. SCOPE:**

Department-wide

### **III. POLICY:**

It is the policy of the Department to perform services with current employees until such time as it would be cost beneficial and in the best interests of the Department's customers to contract for the services.

### **IV. PROCEDURES:**

- A. In addition to the normal contract process, the Division/Center shall provide a **written analysis** (see procedures listed in Section B below and **Attachment 1** to this policy) of the decision to outsource a current Department function.
- B. The Divisions/Centers shall follow the procedures listed below to assist in determining if contracting the services are cost effective and in the best interest of the Department's customers:

#### **1. Written Analysis**

The Division/Center shall provide the following documentation, calculations, or descriptions in the written analysis for the services to be contracted:



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- g. Authorization from the federal granting authority, if required by the grant agreement.
- h. A certification from the Division/Center Director that the proposed contract does not violate any federal law or regulation, state statute or regulation, or Department policy.
- i. A description of how outsourcing the function will benefit the Department's customers. Items that shall be included are:
  - i. Accessibility of any potential Contractor or potential Contractor's services to the general public,
  - ii. Customer complaint resolution, and
  - iii. Departmental oversight of the Contractor's procedures.
- j. Any other information required or requested by the Department Director's Office or Division of Administration.

## 2. Approval Process

The written analysis shall be sent to the appropriate Deputy Department Director and Chief Operating Officer for review and approval. A copy shall also be sent to the Division of Administration-Bureau of Contracts and Procurement.

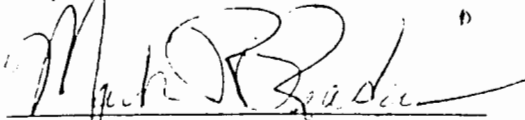
The Department Director's Office will send the written analysis back to the Division/Center. If approved, the Division/Center may begin the IFB/RFP process.

The Division/Center shall follow the contracting procedures listed in the DOA - Bureau of Contracts and Procurement Policy for requesting bids and preparing the contract documentation. A copy of the approved written analysis shall be included with the standard contracting documentation (i.e. DH-10, DH-70, and Scope of Work).

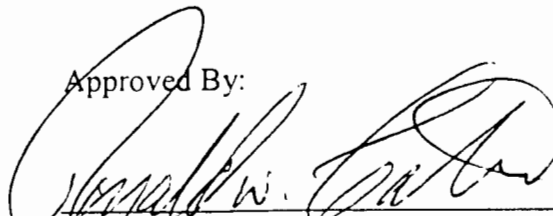
<i>SUBJECT:</i> Cost Considerations of Outsourcing Department Functions	<i>Chapter:</i> 1
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- b. If approved, the award is made to the contractor selected.

Prepared By:

  
Director, Division of Administration

Approved By:

  
Director, Department of Health and Senior Services



**Health and  
Senior Services**  
**MISSOURI DEPARTMENT**

Cost Considerations of Outsourcing Department Functions	Page: 2 of 4
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3. Please provide a detailed itemization of all direct and indirect costs incurred in providing the service using the form below:

Direct Costs:

Salaries of Current Department Personnel noted above \$ \_\_\_\_\_

Total Fringe Benefits (salaries x current fringe rate %) \$ \_\_\_\_\_

Total Indirect costs  
(salaries + fringe benefits x current indirect rate %) \$ \_\_\_\_\_

Expense and Equipment for the Department Personnel \$ \_\_\_\_\_

Grand Total Costs \$ \_\_\_\_\_

Please provide a description of how the contracted procedures will be paid, including the accounting distribution (i.e. fund, appropriation, object code, reporting category).

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4. Please provide an analysis of the quality and quantity of work performed by Department personnel in relation to the service to be contracted out. For example, the number of claims processed by the number of FTE for a given task would be an analysis of the quantity of work performed. Customer complaints logged or incorrect data entry could be measures of the quality of the work performed.

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**Health and  
Senior Services**  
**MISSOURI DEPARTMENT**

Cost Considerations of Outsourcing Department Functions

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B. Customer complaint resolution,

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C. Departmental oversight of the Contractor's procedures,

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We, the undersigned, certify that the proposed outsourcing does not violate any federal law or regulation, state statute or regulation, or Department policy.

\_\_\_\_\_  
Division/Center Director

\_\_\_\_\_  
Division/Center Project Leader

\*\*\*\*\* Approval to Solicit Bids \*\*\*\*\*

☐ I do approve to issue bids for potential outsourcing of this Department function.

☐ I do not approve the outsourcing of this Department function.

\_\_\_\_\_  
Deputy Department Director

\_\_\_\_\_  
Chief Operating Officer

\*\*\*\*\* Approval to Award \*\*\*\*\*

☐ I do approve issuing a contract for outsourcing this Department function.

☐ I do not approve a contract for outsourcing this Department function.

\_\_\_\_\_  
Deputy Department Director

\_\_\_\_\_  
Chief Operating Officer

## Technology Assessment

This questionnaire is designed to help understand the overall status of your agency's use of technology. Please fill the questionnaire out as completely as possible with accurate model numbers, software versions, and quantities.

1. Do you have a network server?
  - a. What kind of computer is it (e.g. HP9000 Model H70, Dell PowerEdge 6600, etc)?
  - b. What is the storage capacity of the hard drive(s)?
  - c. What is the amount of RAM it has?
  - d. What applications run on the server(s)?
2. What kind of backup system does your network have (zip drive, tape backup, etc)?
  - a. How frequently do you perform these backups?
  - b. Do you backup all the hard drives connected to the network, or just the server?
3. How many computers are in the main site of your agency?
  - a. Do you have an accurate inventory of your computers?
  - b. Do you have any satellite sites?
  - c. How many computers are at each satellite site?
  - d. Are your systems standardized? For example, do you have a combination of Macs and PC's, a combination of newer and older systems, a combination of Operating Systems or multiple software products to support (Microsoft Office, WordPerfect).
  - e. If they are different, does it cause problems?
  - f. How serious are the problems?
  - g. What operating systems do you support?
  - h. How do you buy software packages (single license, site license)?
4. What kinds of printers/copiers are you using at each site?
  - a. What are the quantities of each?
  - b. Do they all work adequately?
  - c. What do you use them for (word processing, desktop publishing, etc)?
  - d. Who supports the copiers?
  - e. How many copies do you make per month?

5. Do you have a firewall?
  - a. What type (hardware, software, etc)?
  - b. If it is hardware, then what platform does it run on?
  - c. What operating system does the firewall run on?
  - d. How is your firewall managed/configured?
6. Who has been involved in planning for technology staffing, training and purchases?
7. Who has been involved in the day-to-day support and maintenance tasks of the previous questions?
  - a. How many people do you support?
  - b. How many support staff provide this service?
  - c. What products do you support?
  - d. Describe the current processes used in all the data center locations. By processes, the way the day-to-day operation are being run for example, Helpdesk Management processes, Incident/Fault tolerant process, Problem Management process, Configuration management process, Change Management process, Disaster recovery process, capacity management process.
8. How many support calls per month do you average?
  - a. Describe or provide detail of sample customers being server.
  - b. Is there an associated Service Level Agreement with these customers?
  - c. Please provide details of the SLA.
  - d. How do you track the support calls?
  - e. What is the average amount of time spent per support call?
9. Do you create/support custom applications that are/were developed for your department specifically?
  - a. Do you have a departmental web site?
  - b. Who maintains the web site and how often is it updated?
  - c. What is the location of your web site (<http://www.yahoo.com>)?
  - d. What type of applications are you creating/supporting (web based, windows, etc)?
  - e. How many?
  - f. Do you have developers onsite or do you contract the services?
  - g. How many developers are on your staff?

10. Do you have any ideas or suggestions?

11. Contact information (name, phone, email address).

[illegible]



<b>Midrange AS400</b>	<b>Product Name or Description</b>	<b>Number of products</b>	<b>Using Lay-Person terms, is the Product?</b>	<b>What</b>	<b>Using Lay-Person terms, Why is the product important to your business?</b>		
<b>Equipment</b>	Central Processing Unit (CPU)	1	computer		provides central data storage for office case docket information.		
	Directors	0					
	Direct Access Storage Devices	0					
	Impact Printers	0					
	Electronic Page Printers	0					
	Tape Library Storage Units	0					
	Tape Library Control Units	0					
	Tape Drive Units	1	magnetic backup media		allows us to make daily backups of our data in case of an emergency or hardware failure; We can restore lost data from the tape backup.		
	Tape Library Management Units	0					
	Tape Controllers	0					
	Additional entries may be made here	0					
<b>Software</b>		<b>Indicate Number of Seats/Licenses/Applications</b>					
	System or purchased software	1	IBM operation system		allows us to run our docket application for data collection.		
	Oracle	0					
	DB2	0					
	Tivoli	0					
	Applications Developed and Maintained In-house	1	Attorney General docket system		allows data to be collected and stored for future use in queries and reports in day to day work use.		
	SAS	1	Programming Application Software		allows our programmer to create AdHoc reports from a mainframe for daily work use.		

<b>Midrange RS6000</b>	<b><i>Product Name or Description</i></b>	<b><i>Number of products</i></b>	<b><i>Using Lay-Person terms, What is the Product?</i></b>	<b><i>Using Lay-Person terms, Why is the product important to your business?</i></b>
<b>Equipment</b>	Servers	0		
	Directors/Control work station	0		
	Enterprise Storage Devices	0		
	Impact Printers	0		
	Electronic Page Printers	0		
	Tape Library Storage Units	0		
	Tape Library Control Units	0		
	Tape Drive Units	0		
	Tape Library Management Units	0		
	Tape Controllers	0		
	Additional entries may be made here	0		
<b>Software</b>		<b><i>Indicate Number of Seats/Licenses/ Applications</i></b>		
	System or purchased software	0		
	Oracle	0		
	DB2	0		
	Tivoli	0		
	Applications Developed and Maintained In-house	0		
	Additional entries may be made here	0		

Micro (Intel Based)	Product Name or Description	Number of products	Using Lay-Person terms, is the Product?	What Using Lay-Person terms, Why is the product important to your business?
<b>Equipment</b>				
	Desktop PC's	425	computer	allows each user e-mail and electronic work functions to be performed at their desk. It allows for a more efficient and cost effective work day.
	Laptop PC's	88	portable computer	allows our users remote electronic work functions when traveling.
	Ruggedized Notebook Computers	0		
	Scanners	5	document imaging equipment	allows paper items to be scanned into an electronic format that will allow the user to work with that document on their computer.
	Printers	108	device used to convert electronic files to paper.	produces paper copies of electronic files for review and daily functions
	Handheld Devices (Palm, Blackberry, etc)	27	handheld portable digital assistant	allows remote access, for a person away from the office, to their e-mail, to do list, and address book.
	Servers	16	centralized power computer	allows a centralized high performance computer to store data and share applications for day to day work use. Also allows print sharing for reports and other documents.
	Additional entries may be made here	0		
<b>Software</b>		<b>Indicate Number of Seats/Licenses/Applications</b>		
	Microsoft Office Professional	121	Word processor, spreadsheet, and database	allows cost effective programming tools for small database needs that assist in day to day work functions, data collection and reporting.
	Internet Explorer	400	web browser	allows connection from computers to the internet.
	Lotus SmartSuite	0		
	Novell Groupware	432	electronic mail application	allows users realtime electronic communications to other users from their desktops.
	Cool Biz	0		
	WebSphere	0		
	Java	0		
	.NET	0		
	Netscape	5	web browser	allows connection from computers to the internet.
	McAfee	357	anti-virus shield	allows for a local computer to have a shield against virus attacks.
	Norton	10	anti-virus shield	allows for a local computer to have a shield against virus attacks.
	System or purchased software	12	Summation Blaze Litigation Software for transcripts	an application that allows for importing and quick electronic access to court transcripts via a computer.
	Rational	0		
	Applications Developed and Maintained In-house	4	small database applications developed to store data on a centralized computer	allows electronic access to data collected for query and reporting at a future date; provides easy access to data that is needed in reporting functions on a daily basis.
	WordPerfect	385	Word processor	an application that is used to create electronic documents for daily work functions.

<b>Network</b>	<b><i>Product Name or Description</i></b>	<b><i>Number of products</i></b>	<b><i>Using Lay-Person terms, What is the Product?</i></b>	<b><i>Using Lay-Person terms, Why is the product important to your business?</i></b>
<b>Hardware</b>				
	Routers	8	connects computers from one location to another using high speed data lines	it is a hardware device used to connect remote office computers together to allow them to be networked and accessed at real time for day to day work and communication needs.
	Firewalls	1	network traffice device	it provides a shield for networks against unwanted traffice or connections.
	Virtual Private Networks	0		
	Bridge or Gateway	0		
	Modem or DSU	10	electronic communication device	a device that attaches to a computer to allow remote access to other computers.
	Additional entries may be made here	0		
<b>Software</b>		<b><i>Indicate Number of Seats/Licenses/Applications</i></b>		
	Firewalls	1	network traffice device	it provides a shield for networks against unwanted traffice or connections.
	Virtual Private Networks	0		
	Intrusion Detection Systems	0		
	Network Monitoring Systems	1	electronic analysis system for networks	provides a way to monitor network traffic and devices to identify problems or potienal problems...
	System or purchased software	506	novell network operating system	
	Access Control Servers	0		
	Applications Developed and Maintained In-house	0		
		0		

<b>Micro (Intel Based)</b>	<b><i>Product Name or Description</i></b>	<b><i>Number of products</i></b>	<b><i>Using Lay-Person terms, What is the Product?</i></b>	<b><i>Using Lay-Person terms, Why is the product important to your business?</i></b>
<b><i>Equipment</i></b>				
	Desktop PC's	30		
	Laptop PC's	153		To support mobile users
	Ruggedized Notebook Computers			
	Scanners	5		
	Printers	16		
	Handheld Devices (Palm, Blackberry, etc)	7		
	Servers	9		Each server is an entry level computer dedicated to specific functions in our office.
	Portable Printers	75		provide printing capability for our mobile users
<b>Software</b>		<b><i>Indicate Number of Seats/Licenses/ Applications</i></b>		
	Microsoft Office Professional	175		software used to produce our electronic workpapers
	Internet Explorer	183		
	Lotus Smartsuite	1		
	Novell Groupware	175	email software	
	Cool Biz			
	WebSphere			
	Java			
	.NET			
	Netscape			
	McAfee	175	virus protection	
	Norton			
	System or purchased software			
	Rational			

	Applications Developed and Maintained In-house			
	Norton Ghost	175	hard drive cloning software	Used to support are desktops and notebook computers
	PKZip for Windows	175	file compression software	reducing long distance charges when emailing files from our mobile staff
	ACL	3	data analysis software	used to analyze large amounts of data
	Mun-Ease	1	bond rate calcuation software	used in our bond registration function
	REMI	1	tax credit modeling software	used in our tax credit audits
	Visual Basic	4	programming language	used to develop inhouse applications
	Adobe Acrobat	20	PDF creation software	used to publish audit reports on the web
	Westlaw	2	law research software	used for legal research
	TN3270	22	mainframe access software	needed to access files and programs on the state mainframe
	MacroMedia Sutie	1	web page development suite	used to maintain our web site

<b>Network</b>	<b><i>Product Name or Description</i></b>	<b><i>Number of products</i></b>	<b><i>Using Lay-Person terms, What is the Product?</i></b>	<b><i>Using Lay-Person terms, Why is the product important to your business?</i></b>
<b>Hardware</b>				
	Routers	5		device that allows us to communicate between our offices, access the internet, access SAMII, and the mainframe
	Firewalls			
	Virtual Private Networks			
	Bridge or Gateway			
	Modem or DSU			
	Additional entries may be made here			
<b>Software</b>		<b><i>Indicate Number of Seats/Licenses/Applications</i></b>		
	Firewalls			
	Virtual Private Networks			
	Intrusion Detection Systems			
	Network Monitoring Systems			
	System or purchased software	208	Novell network licenses	
	Access Control Servers			
	Applications Developed and Maintained In-house			
	BackupExec	4	backup software	Data retention and disaster recovery

<b>Micro (Intel Based)</b>	<b><i>Product Name or Description</i></b>	<b><i>Number of products</i></b>	<b><i>Using Lay-Person terms, What is the Product?</i></b>	<b><i>Using Lay-Person terms, Why is the product important to your business?</i></b>
<b><i>Equipment</i></b>				
	Desktop PC's	1693	Staff desktop computers	Primary office productivity tool for data entry and decision support
	Laptop PC's	141	Staff portable computers	Primary office productivity tool for data entry and decision support
	Ruggedized Notebook Computers	0		
	Scanners	20	Device used to convert paper documents to digital form	Allows paper documents to be digitally stored and shared.
	Printers	547	Device used to print electronic data on paper	Necessary when a paper version of electronic data is needed
	Handheld Devices Palm	40	Small pocket sized portable computer used for data entry and tracking	Allows staff to have electronic calendar, E-mail, and data collection capabilities in the field
	Servers	38	Intel-based, mid-size, multi-CPU, multi-user computer	Used to support departmental security, data, e-mail, Web, data base and application services.
	Additional entries may be made here			
<b>Software</b>		<b><i>Indicate Number of Seats/Licenses/ Applications</i></b>		
	Microsoft Office Professional	1744	Microsoft desktop suite of office automation applications: Word Processing, Spread Sheet, Data base & Presentation	Typical office automation tools
	Internet Explorer	1872	Microsoft Web Browser	Provides staff with the capability to access/browse the Web.
	WebSphere App Dev	17	Software tool suite used to develop departmental (i.e., enterprise) web-enabled applications	Utilized by software application programmers to develop and maintain computer programs that support the department's business/operational requirements.



	WebSphere App Server		Operating environment for applications developed via the Websphere tools	Utilized to run software applications developed with the WebSphere tool suite.
	McAfee	1872	Virus scanning and blocking software	Necessary to protect staff workstations from viruses
	System or purchased software			
	Microsoft Server 2000	40	Microsoft operating system software for server computers	Servers will not function without operating system software
	Microsoft Pro 2000	1834	Microsoft operating system software for desktop computers	Desktop and portable computers will not function without operating system software.
	Rational	5	Software tool used for developing enterprise applications	Software application development tool used with WebSphere to enhance programmer productivity
	Dreamweaver	46	Web page development tool	Software tool used to develop and maintain "static" Web pages
	Project 2000	31	Project management and tracking tool	Software project management tool -- provides project managers an automated method to track and manage all activities related to a project
	Focus	68	Query and Reporting tool	Software productivity tool used by staff to quickly build reports from electronically stored data
	PVCS	17	Software application configuration management tool	Automates the tracking of software application modules during the life-cycle of the application.
	Visio	37	Graphical diagramming tool	Used to produce graphical diagrams of organization charts, process flows, network connections, floor plans, etc..
	Quest Central	1	DB2 Data Base management tool	Enhances the ability of data base support staff to build, monitor, and manage DB2-based data bases.

	Secure IIS	1	Fire Wall software for the Web Server	Provides application level protection for the Web Server against hackers and viruses
	Intelliwatch Pinnacle	1	Lotus Notes management tool	Allows Notes Administrators to efficiently monitor and manage the department's Notes servers.
	Secure Mail	1	Internet Mail Gateway	Provides the department's connection for Internet mail and protects the department from viruses and hacking.
	Tidal Enterprise Scheduler	1	Application management tool - job scheduling product	Automates the scheduling, tracking, and reporting of software programs running on the department's servers.
	Tivoli Storage Management	1	Data Backup system software	Automates the backup of data for disaster recovery purposes, and provides on demand restoration of corrupted/damaged data files.
	Websense	1	Web filtering and monitoring tool	Provides the ability to filter incoming Web mail, eliminate Spam, ensure only appropriate Web sites are visited, and monitor Web activity for capacity planning.
	GWI Helpdesk	1	Problem management and tracking tool	Provides electronic reporting of automation-related problems to support staff, a knowledge repository, and management/reporting of problem status for management.
	Lotus Notes	1650	E-mail, calendaring, and work flow application system	Provides E-mail and calendar capabilities for staff, and an application development and support environment for workflow and staff collaboration applications.
	Lotus Sametime	200	Instant messaging and work group collaboration product	Provides instant messaging and allows the electronic formation of collaborative work groups.

	DB2 UDB Enterprise Edition	3	DB2 Relational Data Base Management System	The department's relation database management system used to efficiently store and retrieve enterprise data.
	DB2 Spatial Extender	3	Spatial data extensions for DB2	Provides efficient spatial data storage and retrieval and allows spatial data to be integrated with other enterprise data in the DB2-based environment.
	ArcSDE	2	Spatial Data Server Software	Provides and manages efficient access for applications to spatial data elements.
	GIS(ArcInfo,ArcView, ArcGIS)	190	Geographical Information System Software	Provides graphical presentation and supports decision making via spatial representation of data
	Diskeeper	2050	PC Disk Performance Optimization Tool	Computer maintenance software used to optimize disk performance and thereby enhancing computer performance and staff productivity.
	Partition Magic	500	PC Disk Management Tool	Maintenance software used to partition and manage the disk space of personal computers -- enhances computer performance and staff productivity.
	Microsoft SMS	1	PC Management and Support tool - software distribution, etc.	Network management tool used to automate the distribution of software to all department computers, to remotely control computers for diagnostic and support purposes, and for central reporting of computer configurations (i.e., audit computers, etc.).

[illegible]

<b>Network</b>	<b><i>Product Name or Description</i></b>	<b><i>Number of products</i></b>	<b><i>Using Lay-Person terms, What is the Product?</i></b>	<b><i>Using Lay-Person terms, Why is the product important to your business?</i></b>
<b>Hardware</b>				
	Routers	16 routers and 46 switches (18 of the 46 switches also have builtin routers)	Communications equipment installed on each end of a circuit --- used to route electronic messages (i.e., network personal computers)	Used to connect over 1600 individuals in 20 different locations. Enables information and data sharing, messaging and access to software applications and the Internet.
	Firewalls	2	Hardware servers --- midsized, multi-user computers	This is the the hardware that runs the software used to protect the department's network from unauthorized intrusion.
	Virtual Private Networks	1	Hardware server --- midsized, multi-user computer	This is the hardware that runs the software that provides remote, secure access to the department's network via the Internet.
	Bridge or Gateway	0		
	Modem or DSU	27	Hardware used to connect a Personal Computer to a phone line	Allows a computer to establish a dialup connection to a network.
	Additional entries may be made here			
<b>Software</b>		<b><i>Indicate Number of Seats/Licenses/Applications</i></b>		
	Firewalls ( Checkpoint )	2	Vendor provided security software that protects the DNR network from unauthorized intrusion.	Protects the department's network from unauthorized access. Limits the probability of someone destroying or altering departmental data.
	Virtual Private Networks	1 Central Control Software and 46 clients	Software that allows secure remote connections to the department's network via the Internet	Allows staff to access departmental automation resources from their home or while traveling --- the ability to work while not in their office.
	Intrusion Detection Systems	0		

	Network Monitoring Systems	3	Network management systems: Cisco Works, Concord eHealth & Quest Foglight	Provides technology staff with the ability to manage the department's communications infrastructure -- to include trouble shooting and capacity planning, server and application monitoring, reporting, etc.
	System or purchased software			
	Access Control Servers			
	Applications Developed and Maintained In-house			
	Additional entries may be made here			

MOSERS

## Technology Assessment

This questionnaire is designed to help understand the overall status of your agency's use of technology. Please fill the questionnaire out as completely as possible with accurate model numbers, software versions, and quantities.

1. Do you have a network server? We have 12. All are windows 2000 except the Sun which is Solaris 8.
  - a. What kind of computer is it (e.g. HP9000 Model H70, Dell PowerEdge 6600, etc)? see chart
  - b. What is the storage capacity of the hard drive(s)? see chart
  - c. What is the amount of RAM it has? See chart
  - d. What applications run on the server(s)? see chart

	Apps	RAM	HD	
Gateway 7400	Domain Controller	1 GB	36 GB	
Gateway NS-9000	File Server	768 MB	253 GB	Staff files, Word, Excel, powerpoint, Microsoft Exchange Data base for Phone system
Gateway 7400	Email Server	2 GB	70 GB	Interactive intelligence
Gateway 7210	SQL Server	256 MB	36 GB	Interactive intelligence
Alliance	Phone Server	512 MB	35 GB	Intra net, Retirement board web site.
Alliance	Phone Server	1 GB	35 GB	AgentView software for monitoring calls in queues
Gateway 7400	VPN and Web	1 GB	146 GB	FileNet Image system Retirement
Dell 2300	Phone AgentView	256 MB	20 GB	
Gateway 7400	FileNet Image	512 MB	377 GB	

Dell powerededge 2650	Web server	1 GB	100 GB	member folders MOSERS web site
Gateway 7210	Peoplesoft	1.2 GB	36 GB	Accounting applications
SUN	QED	1 GB	24 GB	Investment database

2. What kind of backup system does your network have (zip drive, tape backup, etc)? tape

- a. How frequently do you perform these backups? Daily
- b. Do you backup all the hard drives connected to the network, or just the server?

Each employee has the data from their PC stored on a server and that server is backed up daily.

3. How many computers are in the main site of your agency? 85

- a. Do you have an accurate inventory of your computers? yes
- b. Do you have any satellite sites? no
- c. How many computers are at each satellite site? no
- d. Are your systems standardized? For example, do you have a combination of Macs and PC's, a combination of newer and older systems, a combination of Operating Systems or multiple software products to support (Microsoft Office, WordPerfect).

We standardize on Microsoft windows and Microsoft office. We have one Mac in our communications department.

- e. If they are different, does it cause problems? no
- f. How serious are the problems? No problems
- g. What operating systems do you support?

Microsoft windows 2000 and XP, Mac OS 10

- h. How do you buy software packages (single license, site license)?  
Site license for office wide software. Single license if only a few are used.

4. What kinds of printers/copiers are you using at each site?

- a. What are the quantities of each?

Printers

- 1 Canon IR110
- 2 Xerox N40
- 2 HP MICR 4100T
- 19 Brother HL-1440



20 HP 2200DT  
 1 HP 2280  
 12 HP 2125  
 1 HP 2280  
 5 HP 4L  
 8 Optra LX  
 2 Lexmark inkjet  
 1 Xerox P12  
 5 Xerox Docuprint

Copiers

Savin 2535 A15  
 Sharp AR-336  
 Canon IR2200

- b. Do they all work adequately? yes
- c. What do you use them for (word processing, desktop publishing, etc)? Word processing, Desktop publishing, check printing, Invoice printing.
- d. Who supports the copiers?

Savin 2535 A15 ATS  
 Sharp AR-336 GFI  
 Canon IR2200 IKON

- e. How many copies do you make per month? 27,000

5. Do you have a firewall?

- a. What type (hardware, software, etc)? hardware
- b. If it is hardware, then what platform does it run on? Sonicwall pro 100

What operating system does the firewall run on? SonicWALL's Security ASIC system. It doesn't have an O/S like linux or unix.

- c. It runs on firmware specially designed to run the hardware on the board.
- d. How is your firewall managed/configured? By or Senior Network Analyst.

6. Who has been involved in planning for technology staffing, training and purchases?

We have a information technology workgroup with a representative from each section of MOSERS. Manager and Supervisor of IT

7. Who has been involved in the day-to-day support and maintenance tasks of the previous questions? IT staff

- a. How many people do you support? 72

- b. How many support staff provide this service? 9
- c. What products do you support? Windows 2000 xp, windows office 2000, enterprise interaction center (telephone system), FileNet (image system), peoplesoft (accounting systems), agentview (call queue monitor), Dreamweaver (web site development)
- d. Describe the current processes used in all the data center locations. By processes, the way the day-to-day operation are being run for example, Helpdesk Management processes, Incident/Fault tolerant process, Problem Management process, Configuration management process, Change Management process, Disaster recovery process, capacity management process.

We backup all servers, All systems have RAID 5 Fault tolerant processes. We have a Problem/change system using Microsoft outlook. The databases we use monitor disk usage and report when thresholds are reached.

- 8. How many support calls per month do you average? Don't track.

- a. Describe or provide detail of sample customers being served.

Benefits department prints benefit estimates for members that show both MSEP and MSEP2000 plus all options were the member is eligible. This can be 4 or 5 legal duplex pages with forms that need to be printed at the Benefit Specialist desk. If they have a problem with the program or their printer we will be called to correct the problem. If a member is waiting for their paperwork we will need to fix the problem immediately.

- b. Is there an associated Service Level Agreement with these customers? no
- c. Please provide details of the SLA.
- d. How do you track the support calls? Do not
- e. What is the average amount of time spent per support call? N/A

- 9. Do you create/support custom applications that are/were developed for your department specifically? yes

- a. Do you have a departmental web site? yes
- b. Who maintains the web site and how often is it updated? Senior Network Systems Analyst, Graphic Arts Specialist. At least once a week.
- c. What is the location of your web site (<http://www.vahoo.com>)? www.mosers.org
- d. What type of applications are you creating/supporting (web based, windows, etc)? Web, windows, IBM i series, telecommunications. We have systems and programs that support retirement. Life insurance, Long Term Disability programs.
- e. How many? 730
- f. Do you have developers onsite or do you contract the services? Onsite

g. How many developers are on your staff? 9

10. Do you have any ideas or suggestions?

11. Contact information (name, phone, email address).

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Legislative Research  
Oversight Division  
State Comparison Study

Population

(quantities are in thousands, i.e. 4,447 represents 4,447,000)

Alphabetical

State	Population (2000)	Population (2001)
Alabama	4,447	4,464
Alaska	627	635
Arizona	5,131	5,307
Arkansas	2,673	2,692
California	33,872	34,501
Colorado	4,301	4,418
Connecticut	3,406	3,425
Delaware	784	796
Florida	15,982	16,397
Georgia	8,186	8,384
Hawaii	1,212	1,224
Idaho	1,294	1,321
Illinois	12,419	12,482
Indiana	6,080	6,115
Iowa	2,926	2,923
Kansas	2,688	2,695
Kentucky	4,042	4,066
Louisiana	4,469	4,465
Maine	1,275	1,287
Maryland	5,296	5,375
Massachusetts	6,349	6,379
Michigan	9,938	9,991
Minnesota	4,919	4,972
Mississippi	2,845	2,858
<b>Missouri</b>	<b>5,595</b>	<b>5,630</b>
Montana	902	904
Nebraska	1,711	1,713
Nevada	1,998	2,106
New Hampshire	1,236	1,259
New Jersey	8,414	8,484
New Mexico	1,819	1,829
New York	18,976	19,011
North Carolina	8,049	8,186
North Dakota	642	634
Ohio	11,353	11,374
Oklahoma	3,451	3,460
Oregon	3,421	3,473
Pennsylvania	12,281	12,287
Rhode Island	1,048	1,059
South Carolina	4,012	4,063
South Dakota	755	757
Tennessee	5,689	5,740
Texas	20,852	21,325
Utah	2,233	2,270
Vermont	609	613
Virginia	7,079	7,188
Washington	5,894	5,988
West Virginia	1,808	1,802
Wisconsin	5,364	5,402
Wyoming	494	494

Source: Statistical Abstract of the United States: 2002  
Page 22

Rank: 2000

Rank	State	Population
1	California	33,872
2	Texas	20,852
3	New York	18,976
4	Florida	15,982
5	Illinois	12,419
6	Pennsylvania	12,281
7	Ohio	11,353
8	Michigan	9,938
9	New Jersey	8,414
10	Georgia	8,186
11	North Carolina	8,049
12	Virginia	7,079
13	Massachusetts	6,349
14	Indiana	6,080
15	Washington	5,894
16	Tennessee	5,689
<b>17</b>	<b>Missouri</b>	<b>5,595</b>
18	Wisconsin	5,364
19	Maryland	5,296
20	Arizona	5,131
21	Minnesota	4,919
22	Louisiana	4,469
23	Alabama	4,447
24	Colorado	4,301
25	Kentucky	4,042
26	South Carolina	4,012
27	Oklahoma	3,451
28	Oregon	3,421
29	Connecticut	3,406
30	Iowa	2,926
31	Mississippi	2,845
32	Kansas	2,688
33	Arkansas	2,673
34	Utah	2,233
35	Nevada	1,998
36	New Mexico	1,819
37	West Virginia	1,808
38	Nebraska	1,711
39	Idaho	1,294
40	Maine	1,275
41	New Hampshire	1,236
42	Hawaii	1,212
43	Rhode Island	1,048
44	Montana	902
45	Delaware	784
46	South Dakota	755
47	North Dakota	642
48	Alaska	627
49	Vermont	609
50	Wyoming	494

Source: Statistical Abstract of the United States: 2002  
Page 22

Rank: 2001

Rank	State	Population
1	California	34,501
2	Texas	21,325
3	New York	19,011
4	Florida	16,397
5	Illinois	12,482
6	Pennsylvania	12,287
7	Ohio	11,374
8	Michigan	9,991
9	New Jersey	8,484
10	Georgia	8,384
11	North Carolina	8,186
12	Virginia	7,188
13	Massachusetts	6,379
14	Indiana	6,115
15	Washington	5,988
16	Tennessee	5,740
<b>17</b>	<b>Missouri</b>	<b>5,630</b>
18	Wisconsin	5,402
19	Maryland	5,375
20	Arizona	5,307
21	Minnesota	4,972
22	Louisiana	4,465
23	Alabama	4,464
24	Colorado	4,418
25	Kentucky	4,066
26	South Carolina	4,063
27	Oregon	3,473
28	Oklahoma	3,460
29	Connecticut	3,425
30	Iowa	2,923
31	Mississippi	2,858
32	Kansas	2,695
33	Arkansas	2,692
34	Utah	2,270
35	Nevada	2,106
36	New Mexico	1,829
37	West Virginia	1,802
38	Nebraska	1,713
39	Idaho	1,321
40	Maine	1,287
41	New Hampshire	1,259
42	Hawaii	1,224
43	Rhode Island	1,059
44	Montana	904
45	Delaware	796
46	South Dakota	757
47	Alaska	635
48	North Dakota	634
49	Vermont	613
50	Wyoming	494

Legislative Research  
Oversight Division  
State Comparison Study

Number of Full-Time State Employees/Population

(quantities are in thousands, i.e. 74 represents 74,000)

**Alphabetical**

State	Employees (2000)	Population	Employee/Population
Alabama	74	4,447	1.66%
Alaska	21.8	627	3.48%
Arizona	56.1	5,131	1.09%
Arkansas	46.5	2,673	1.74%
California	317.3	33,872	0.94%
Colorado	46.8	4,301	1.09%
Connecticut	58.3	3,406	1.71%
Delaware	21.2	784	2.70%
Florida	172.6	15,982	1.08%
Georgia	107.6	8,186	1.31%
Hawaii	49.8	1,212	4.11%
Idaho	17.9	1,294	1.38%
Illinois	112.0	12,419	0.90%
Indiana	73.6	6,080	1.21%
Iowa	42.9	2,926	1.47%
Kansas	38.2	2,688	1.42%
Kentucky	68.3	4,042	1.69%
Louisiana	85.2	4,469	1.91%
Maine	18.6	1,275	1.46%
Maryland	81.7	5,296	1.54%
Massachusetts	86.6	6,349	1.36%
Michigan	114.6	9,938	1.15%
Minnesota	59.5	4,919	1.21%
Mississippi	51.2	2,845	1.80%
<b>Missouri</b>	<b>83.0</b>	<b>5,595</b>	<b>1.48%</b>
Montana	16.4	902	1.82%
Nebraska	27.6	1,711	1.61%
Nevada	20.1	1,998	1.01%
New Hampshire	15.9	1,236	1.29%
New Jersey	128.2	8,414	1.52%
New Mexico	41.6	1,819	2.29%
New York	234.9	18,976	1.24%
North Carolina	117.7	8,049	1.46%
North Dakota	13.2	642	2.06%
Ohio	114.3	11,353	1.01%
Oklahoma	56.5	3,451	1.64%
Oregon	46.0	3,421	1.34%
Pennsylvania	136.0	12,281	1.11%
Rhode Island	18.1	1,048	1.73%
South Carolina	73.7	4,012	1.84%
South Dakota	11.3	755	1.50%
Tennessee	70.9	5,689	1.25%
Texas	240.7	20,852	1.15%
Utah	44.6	2,233	2.00%
Vermont	12.6	609	2.07%
Virginia	102.8	7,079	1.45%
Washington	91.8	5,894	1.56%
West Virginia	32.2	1,808	1.78%
Wisconsin	54.6	5,364	1.02%
Wyoming	10.0	494	2.02%

Employees (2001)	Population	Employee/Population
70.1	4,464	1.57%
21.1	635	3.32%
55.8	5,307	1.05%
44.5	2,692	1.65%
308.9	34,501	0.90%
45.9	4,418	1.04%
48.3	3,425	1.41%
20.9	796	2.63%
165.9	16,397	1.01%
104.5	8,384	1.25%
49.1	1,224	4.01%
18.1	1,321	1.37%
110.3	12,482	0.88%
70.8	6,115	1.16%
42.5	2,923	1.45%
36.4	2,695	1.35%
65.4	4,066	1.61%
86.1	4,465	1.93%
18.4	1,287	1.43%
81.9	5,375	1.52%
86.4	6,379	1.35%
111.9	9,991	1.12%
58.9	4,972	1.18%
50.9	2,858	1.78%
<b>82.2</b>	<b>5,630</b>	<b>1.46%</b>
15.5	904	1.71%
26.1	1,713	1.52%
19.4	2,106	0.92%
15.8	1,259	1.25%
124.1	8,484	1.46%
42.1	1,829	2.30%
234.7	19,011	1.23%
112.5	8,186	1.37%
13.1	634	2.07%
113.8	11,374	1.00%
59.7	3,460	1.73%
45.1	3,473	1.30%
133.0	12,287	1.08%
17.7	1,059	1.67%
72.9	4,063	1.79%
11.6	757	1.53%
70.1	5,740	1.22%
242.9	21,325	1.14%
42.4	2,270	1.87%
12.6	613	2.06%
101.1	7,188	1.41%
90.9	5,988	1.52%
29.4	1,802	1.63%
53.1	5,402	0.98%
10.1	494	2.04%

Note: Numbers include higher education

Source: Department of Commerce, Bureau of Census  
Five year census, "Census of Governments"  
[www.census.gov/govs/www/](http://www.census.gov/govs/www/)

Source: Statistical Abstract of the United States: 2002  
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**Legislative Research  
Oversight Division  
State Comparison Study**

**Number of Full-Time State Employees/Population**

(quantities are in thousands, i.e. 317.3 represents 317,300)

**Rank: 2000**

Rank	State	Employee/Population
1	Hawaii	4.11%
2	Alaska	3.48%
3	Delaware	2.70%
4	New Mexico	2.29%
5	Vermont	2.07%
6	North Dakota	2.06%
7	Wyoming	2.02%
8	Utah	2.00%
9	Louisiana	1.91%
10	South Carolina	1.84%
11	Montana	1.82%
12	Mississippi	1.80%
13	West Virginia	1.78%
14	Arkansas	1.74%
15	Rhode Island	1.73%
16	Connecticut	1.71%
17	Kentucky	1.69%
18	Alabama	1.66%
19	Oklahoma	1.64%
20	Nebraska	1.61%
21	Washington	1.56%
22	Maryland	1.54%
23	New Jersey	1.52%
24	South Dakota	1.50%
<b>25</b>	<b>Missouri</b>	<b>1.48%</b>
26	Iowa	1.47%
27	North Carolina	1.46%
28	Maine	1.46%
29	Virginia	1.45%
30	Kansas	1.42%
31	Idaho	1.38%
32	Massachusetts	1.36%
33	Oregon	1.34%
34	Georgia	1.31%
35	New Hampshire	1.29%
36	Tennessee	1.25%
37	New York	1.24%
38	Indiana	1.21%
39	Minnesota	1.21%
40	Texas	1.15%
41	Michigan	1.15%
42	Pennsylvania	1.11%
43	Arizona	1.09%
44	Colorado	1.09%
45	Florida	1.08%
46	Wisconsin	1.02%
47	Ohio	1.01%
48	Nevada	1.01%
49	California	0.94%
50	Illinois	0.90%

**Rank: 2001**

Rank	State	Employee/Population
1	Hawaii	4.01%
2	Alaska	3.32%
3	Delaware	2.63%
4	New Mexico	2.30%
5	North Dakota	2.07%
6	Vermont	2.06%
7	Wyoming	2.04%
8	Louisiana	1.93%
9	Utah	1.87%
10	South Carolina	1.79%
11	Mississippi	1.78%
12	Oklahoma	1.73%
13	Montana	1.71%
14	Rhode Island	1.67%
15	Arkansas	1.65%
16	West Virginia	1.63%
17	Kentucky	1.61%
18	Alabama	1.57%
19	South Dakota	1.53%
20	Maryland	1.52%
21	Nebraska	1.52%
22	Washington	1.52%
23	New Jersey	1.46%
<b>24</b>	<b>Missouri</b>	<b>1.46%</b>
25	Iowa	1.45%
26	Maine	1.43%
27	Connecticut	1.41%
28	Virginia	1.41%
29	North Carolina	1.37%
30	Idaho	1.37%
31	Massachusetts	1.35%
32	Kansas	1.35%
33	Oregon	1.30%
34	New Hampshire	1.25%
35	Georgia	1.25%
36	New York	1.23%
37	Tennessee	1.22%
38	Minnesota	1.18%
39	Indiana	1.16%
40	Texas	1.14%
41	Michigan	1.12%
42	Pennsylvania	1.08%
43	Arizona	1.05%
44	Colorado	1.04%
45	Florida	1.01%
46	Ohio	1.00%
47	Wisconsin	0.98%
48	Nevada	0.92%
49	California	0.90%
50	Illinois	0.88%

Note: Numbers include higher education

Source: Department of Commerce, Bureau of Census  
Five year census, "Census of Governments"  
[www.census.gov/govs/www/](http://www.census.gov/govs/www/)

Source: Statistical Abstract of the United States: 2002  
Page 22

**Legislative Research  
Oversight Division  
State Comparison Study**

**Number of Full-Time State Employees**

(quantities are in thousands, i.e. 74 represents 74,000)

**Alphabetical**

State	Employees (2000)	Employees (2001)	Difference
Alabama	74	70.1	(3.9)
Alaska	21.8	21.1	(0.7)
Arizona	56.1	55.8	(0.3)
Arkansas	46.5	44.5	(2.0)
California	317.3	308.9	(8.4)
Colorado	46.8	45.9	(0.9)
Connecticut	58.3	48.3	(10.0)
Delaware	21.2	20.9	(0.3)
Florida	172.6	165.9	(6.7)
Georgia	107.6	104.5	(3.1)
Hawaii	49.8	49.1	(0.7)
Idaho	17.9	18.1	0.2
Illinois	112.0	110.3	(1.7)
Indiana	73.6	70.8	(2.8)
Iowa	42.9	42.5	(0.4)
Kansas	38.2	36.4	(1.8)
Kentucky	68.3	65.4	(2.9)
Louisiana	85.2	86.1	0.9
Maine	18.6	18.4	(0.2)
Maryland	81.7	81.9	0.2
Massachusetts	86.6	86.4	(0.2)
Michigan	114.6	111.9	(2.7)
Minnesota	59.5	58.9	(0.6)
Mississippi	51.2	50.9	(0.3)
<b>Missouri</b>	<b>83.0</b>	<b>82.2</b>	<b>(0.8)</b>
Montana	16.4	15.5	(0.9)
Nebraska	27.6	26.1	(1.5)
Nevada	20.1	19.4	(0.7)
New Hampshire	15.9	15.8	(0.1)
New Jersey	128.2	124.1	(4.1)
New Mexico	41.6	42.1	0.5
New York	234.9	234.7	(0.2)
North Carolina	117.7	112.5	(5.2)
North Dakota	13.2	13.1	(0.1)
Ohio	114.3	113.8	(0.5)
Oklahoma	56.5	59.7	3.2
Oregon	46.0	45.1	(0.9)
Pennsylvania	136.0	133.0	(3.0)
Rhode Island	18.1	17.7	(0.4)
South Carolina	73.7	72.9	(0.8)
South Dakota	11.3	11.6	0.3
Tennessee	70.9	70.1	(0.8)
Texas	240.7	242.9	2.2
Utah	44.6	42.4	(2.2)
Vermont	12.6	12.6	0.0
Virginia	102.8	101.1	(1.7)
Washington	91.8	90.9	(0.9)
West Virginia	32.2	29.4	(2.8)
Wisconsin	54.6	53.1	(1.5)
Wyoming	10.0	10.1	0.1

*Note: Numbers include higher education*

Source: Department of Commerce, Bureau of Census  
Five year census, "Census of Governments"  
[www.census.gov/govs/www/](http://www.census.gov/govs/www/)

**Legislative Research  
Oversight Division  
State Comparison Study**

**Number of Full-Time State Employees**

(quantities are in thousands, i.e. 317.3 represents 317,300)

Rank	State	Employees (2000)
1	California	317.3
2	Texas	240.7
3	New York	234.9
4	Florida	172.6
5	Pennsylvania	136.0
6	New Jersey	128.2
7	North Carolina	117.7
8	Michigan	114.6
9	Ohio	114.3
10	Illinois	112.0
11	Georgia	107.6
12	Virginia	102.8
13	Washington	91.8
14	Massachusetts	86.6
15	Louisiana	85.2
<b>16</b>	<b>Missouri</b>	<b>83.0</b>
17	Maryland	81.7
18	Alabama	74
19	South Carolina	73.7
20	Indiana	73.6
21	Tennessee	70.9
22	Kentucky	68.3
23	Minnesota	59.5
24	Connecticut	58.3
25	Oklahoma	56.5
26	Arizona	56.1
27	Wisconsin	54.6
28	Mississippi	51.2
29	Hawaii	49.8
30	Colorado	46.8
31	Arkansas	46.5
32	Oregon	46.0
33	Utah	44.6
34	Iowa	42.9
35	New Mexico	41.6
36	Kansas	38.2
37	West Virginia	32.2
38	Nebraska	27.6
39	Alaska	21.8
40	Delaware	21.2
41	Nevada	20.1
42	Maine	18.6
43	Rhode Island	18.1
44	Idaho	17.9
45	Montana	16.4
46	New Hampshire	15.9
47	North Dakota	13.2
48	Vermont	12.6
49	South Dakota	11.3
50	Wyoming	10.0

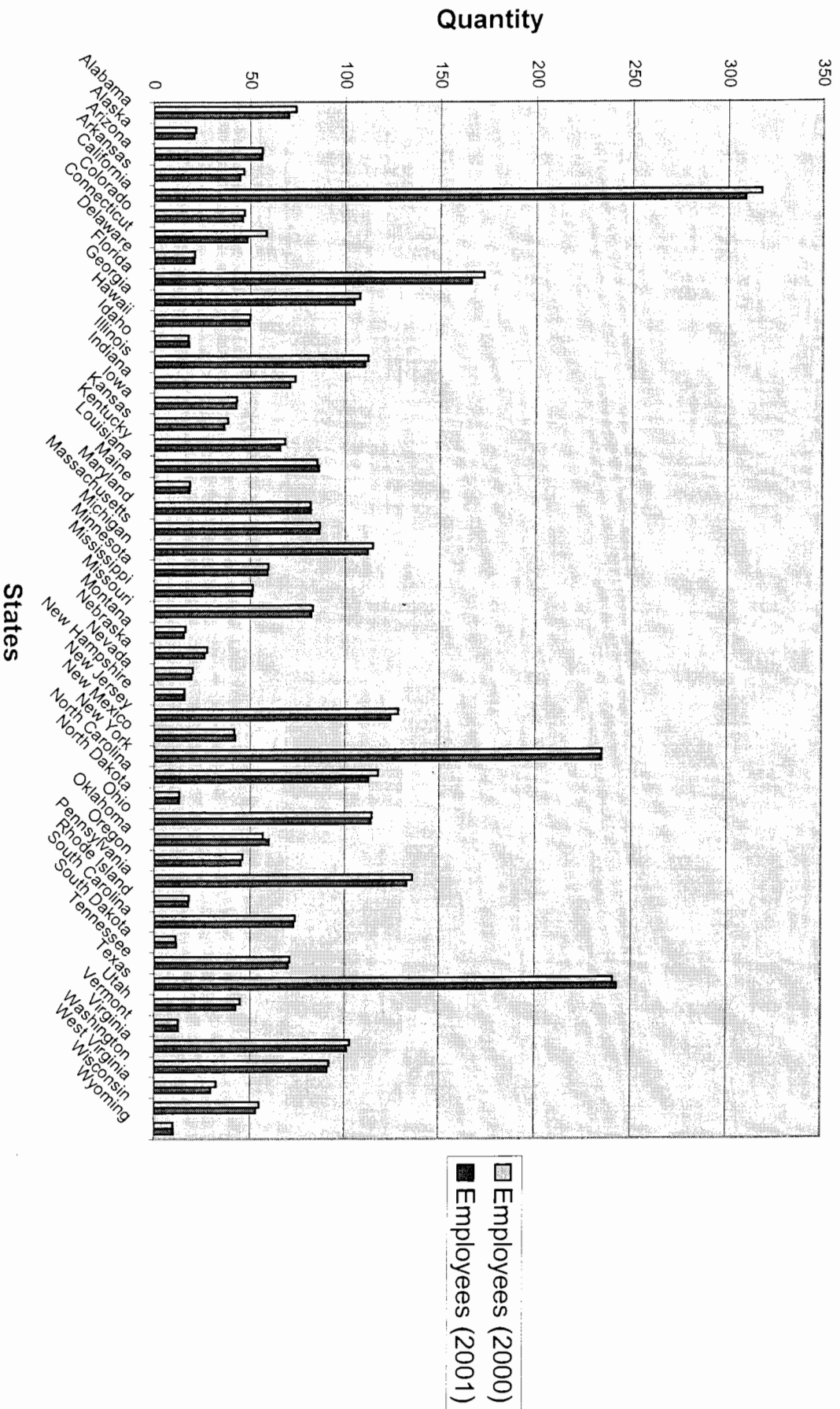
Rank	State	Employees (2001)
1	California	308.9
2	Texas	242.9
3	New York	234.7
4	Florida	165.9
5	Pennsylvania	133.0
6	New Jersey	124.1
7	Ohio	113.8
8	North Carolina	112.5
9	Michigan	111.9
10	Illinois	110.3
11	Georgia	104.5
12	Virginia	101.1
13	Washington	90.9
14	Massachusetts	86.4
15	Louisiana	86.1
<b>16</b>	<b>Missouri</b>	<b>82.2</b>
17	Maryland	81.9
18	South Carolina	72.9
19	Indiana	70.8
20	Alabama	70.1
20	Tennessee	70.1
21	Kentucky	65.4
22	Oklahoma	59.7
23	Minnesota	58.9
24	Arizona	55.8
25	Wisconsin	53.1
26	Mississippi	50.9
27	Hawaii	49.1
28	Connecticut	48.3
29	Colorado	45.9
30	Oregon	45.1
31	Arkansas	44.5
32	Iowa	42.5
33	Utah	42.4
34	New Mexico	42.1
35	Kansas	36.4
36	West Virginia	29.4
37	Nebraska	26.1
38	Alaska	21.1
39	Delaware	20.9
40	Nevada	19.4
41	Maine	18.4
42	Idaho	18.1
43	Rhode Island	17.7
44	New Hampshire	15.8
45	Montana	15.5
46	North Dakota	13.1
47	Vermont	12.6
48	South Dakota	11.6
49	Wyoming	10.1

*Note: Numbers include higher education*

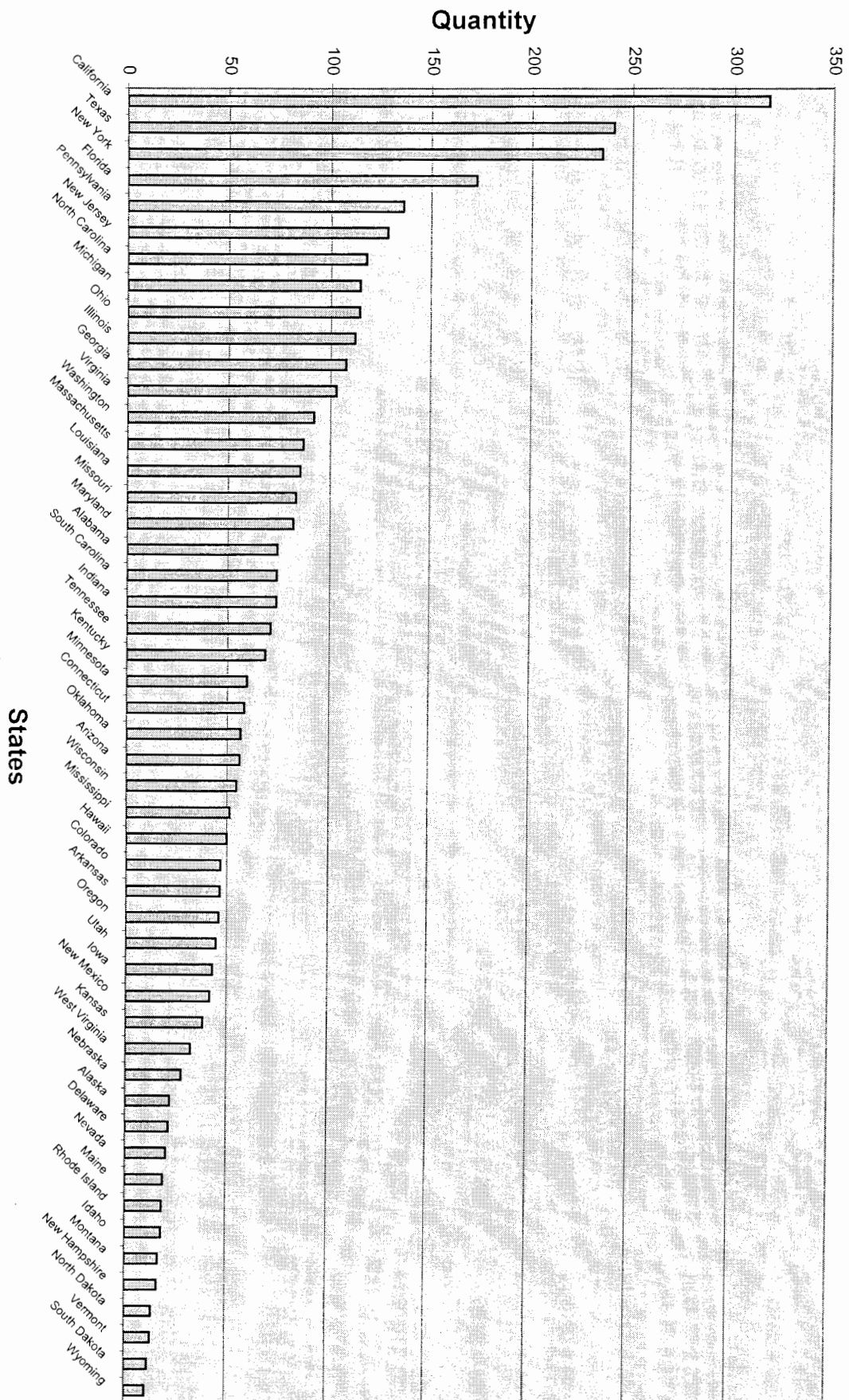
Source: Department of Commerce, Bureau of Census  
Five year census, "Census of Governments"  
[www.census.gov/govs/www/](http://www.census.gov/govs/www/)



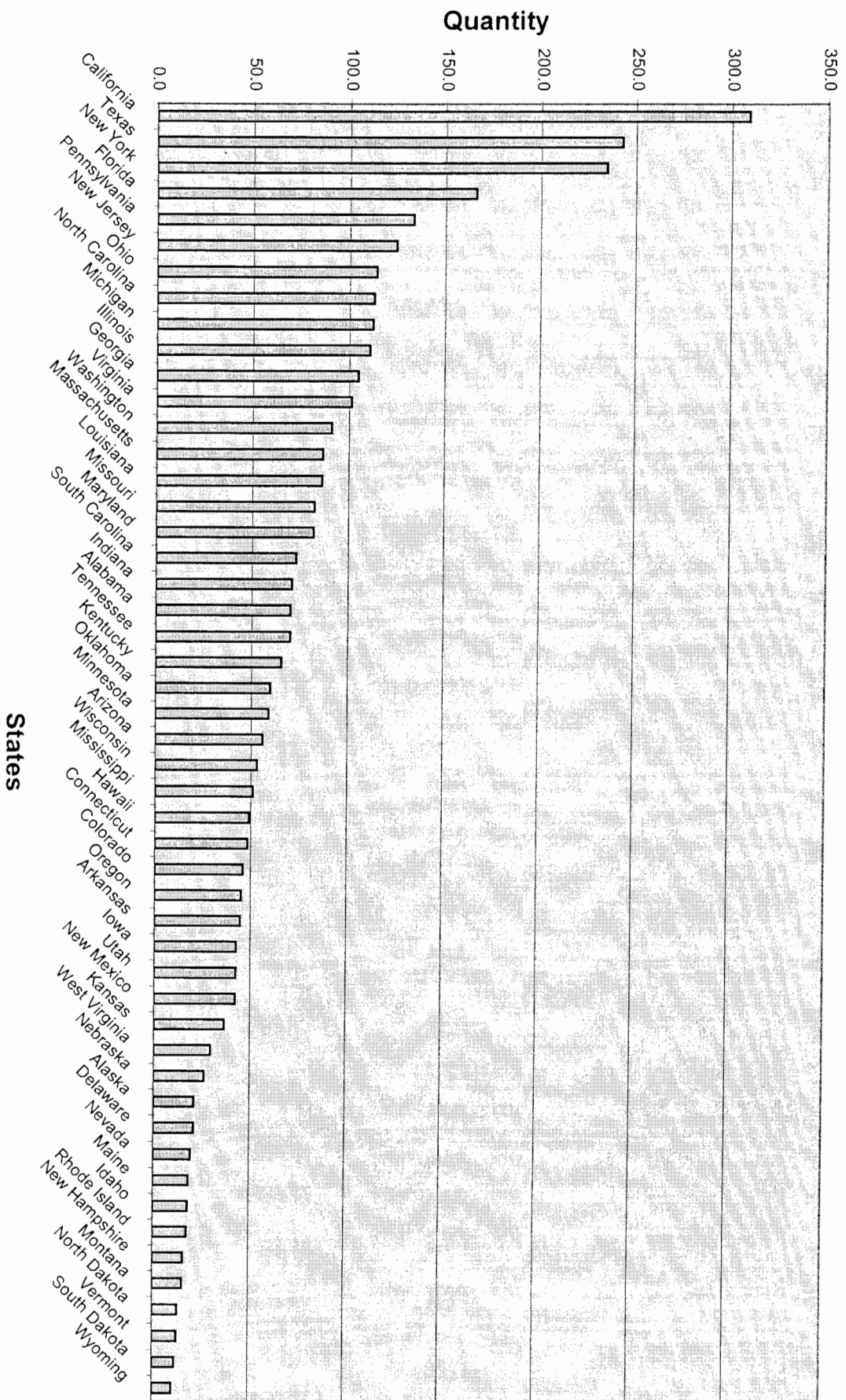
## State Employees (Alphabetic)

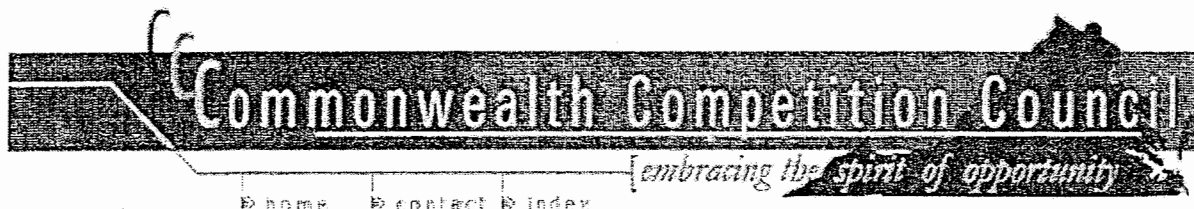


# State Employees 2000 (Rank)



## State Employees 2001 (Rank)





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## An Introduction to Privatization/Competition

Today, it seems that many discussions involving government services or public projects sooner or later turn to the subject of privatization and competition and the issues they raise. Both states and large cities report saving millions of dollars through privatization and competition of a variety of government functions ranging from private prisons, the sale of assets, to providing nursing home care. Even small towns and county governments throughout the United States are seriously considering competing the management of everything from public libraries, airport management, to public works facilities.

What is privatization/competition anyway? Is it a new development? And what forces are driving it? It is a concept that covers a wide variety of approaches to involving both the public and private sector in the delivery of services and the development of projects intended to benefit the general public. It applies to everything from outright turnover of government functions to the private sector (getting out of the business), contracting out the service with continued government oversight, managed competition between the government and the private sector (in which the most efficient organization competes and wins), public-private partnerships, to employee stock ownership plans (ESOPs). The determination of the most efficient method to provide the service normally starts with performing a public-private performance analysis.

Click here to view and print a copy of the



**public-private performance analysis**

These questions and answers explain specific terms related to privatization/competition (listed alphabetically in **bold type** and cross-referenced in teletype). It is generally useful to consider privatization/competition techniques as falling into one of four broad categories, or some combination of them. These categories include:

- Transferring ownership of government assets to the private sector.
- Contracting with private sector firms to provide services previously provided by the government.
- Involving the private sector in the financing and development of public capital improvement projects as a substitute for purely public financing through taxes and bonds.

- » Q & A
- » Best Practices
- » Our Council
- » Processes
- » ESOP
- » Library
- » Commercial Times
- » Competition Watch
- » Commonwealth Calendar
- » eGov Toolkit
- » Links



see attached

- Competition when two or more parties independently attempt to secure the business of a customer by offering the most favorable terms or the highest quality service or product. Competition in relation to government activities is usually categorized in three ways: (1) managed competition in which public-sector organizations compete with the private sector to conduct public-sector business; (2) public versus public, in which public-sector organizations compete among themselves to conduct public-sector business; and (3) private versus private, in which private-sector organizations compete among themselves to conduct public-sector business.

Historically speaking, privatization/competition in the United States is far from a new development. Private sector involvement in major public improvement projects occurred in the building of 19th Century projects like the Erie Canal and the transcontinental railroad. Taking the long view, the current trend toward privatization/competition is more like the swing of a pendulum than a radical change in direction. Typically, the forces behind the popularity of privatization/competition are primarily financial and philosophical. Financially, governments at all levels struggle with the demand to provide services without increasing taxes. Philosophically, the proponents of privatization/competition agree with the pragmatic financial considerations, but they also support privatization/competition when government budgets are balanced.

The philosophical argument for privatization/competition is based on two main premises. The first is that the free market offers benefits not found in the public sector, such as, relative ease of innovation, quicker decision-making, and the general efficiency that results from market discipline and the need to compete for business. With the global economy, American enterprise has learned that effective competition improves productivity. The second is that these benefits more than offset any dangers of fraud or predatory commercial practices that the competitive free market creates. In fact, these free market tendencies are considered to be beneficial because they actually threaten the destruction of businesses that do not provide the best value for their customers and thereby encourage creativity and economical customer service.

Based on these philosophical points of view, privatization/competition is a good idea even with balanced budgets, since taxpayers are entitled to get the best value for their tax dollars. The bottom line on privatization/competition is: *"its purpose is public benefit, not private gain."*

The Council believes that the terms and examples will answer some of the most frequently asked questions about privatization/competition activities and processes.

April 1998

Richmond, Virginia

### Questions and Answers About Privatization/Competition



### Cost Comparison Program "COMPETE"

### Taskforce on Commercial Activities of Charitable Organizations

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## Questions & Answers

### Questions and Answers About Privatization/Competition \*

<u>Asset Sale</u>	<u>Managed Competition</u>
<u>Build-Lease-Transfer (BLT)</u>	<u>Most Efficient Organization (MEO)</u>
<u>Build-Operate-Transfer (BOT)</u>	<u>Mining the Balance Sheet</u>
<u>Build-Own-Operate (BOO)</u>	<u>Natural Monopoly</u>
<u>Build-Own-Operate-Transfer (BOOT)</u>	<u>Overhead</u>
<u>Build-Transfer-Operate (BTO)</u>	<u>Outsourcing</u>
<u>Buy-Build-Operate (BBO)</u>	<u>Performance-Based Contracting Incentives</u>
<u>Change in Use</u>	<u>Performance Measures</u>
<u>Commercial Activity</u>	<u>Performance Standards</u>
<u>Commercial Source</u>	<u>Performance Work Statement (PWS)</u>
<u>Competition Process</u>	<u>Private Activity Bonds (PABs)</u>
<u>Concession Benefits and Concession Periods</u>	<u>Privatization/Competition</u>
<u>Contracting Out</u>	<u>Public Purpose Debt</u>
<u>Consolidation</u>	<u>Public-Local Government Partnership</u>
<u>Conversion to Contract</u>	<u>Public-Private Partnership</u>
<u>Conversion from Contract</u>	<u>Public-Private Performance Analysis</u>
<u>Corporatization</u>	<u>Qualified Private Activity Bonds (PABs)</u>
<u>Cost Comparison Program ("COMPETE")</u>	<u>Quality Assurance</u>
<u>Customerizing</u>	<u>Qualified Use</u>
<u>Design-Build-Operate (DBO)</u>	<u>Regulation of User Charges and Rates of Return</u>
<u>Development Rights</u>	<u>Risk Unbundling</u>
<u>Devolution</u>	<u>Sale-Leaseback</u>
<u>Employee Stock Ownership Plan (ESOP)</u>	<u>Service Contract</u>
<u>Franchising</u>	<u>Service Shedding</u>

Fully Allocated Cost

Spin-Off

Government/Quasi-Government  
Corporations

State Agency

Government-Owned Contractor-Operated  
(GOCO)

Third Sector

Unsolicited Proposal

Inherently Governmental Activity

Voluntary Sector

Lease-Develop-Operate (LDO)

Vouchers

Lease-Purchase Financing

Wraparound Addition

Leveraged Leasing

Make or Buy



<u>Development Rights</u>	<u>Risk Unbundling</u>
<u>Devolution</u>	<u>Sale-Leaseback</u>
<u>Employee Stock Ownership Plan (ESOP)</u>	<u>Service Contract</u>
<u>Franchising</u>	<u>Service Shedding</u>
<u>Fully Allocated Cost</u>	<u>Spin-Off</u>
<u>Government/Quasi-Government Corporations</u>	<u>State Agency</u>
<u>Government-Owned Contractor-Operated (GOCO)</u>	<u>Third Sector</u>
<u>Inherently Governmental Activity</u>	<u>Unsolicited Proposal</u>
<u>Lease-Develop-Operate (LDO)</u>	<u>Voluntary Sector</u>
<u>Lease-Purchase Financing</u>	<u>Vouchers</u>
<u>Leveraged Leasing</u>	<u>Wraparound Addition</u>
<u>Make or Buy</u>	

## **APPENDIX A: Commercial Activities - Competitive Government Opportunities**

\* The terms and definitions were compiled using a variety of documents from state, federal and other resources. Some of the definitions are articulated in other Virginia agency manuals such as the Agency Procurement Manual, Capital Outlay Manual, Agency Procurement and Surplus Property Manual (APSPM) and budget instructions by the Department of Planning and Budget.

## **Questions and Answers About Privatization/Competition**

**Q:** What is an **asset sale** approach to privatization/competition?

**A:** The state simply sells a publicly owned asset to the private sector in anticipation of achieving some or all of three key benefits:

- An immediate infusion of cash into the state treasury as a result of the sale.
- Long-term increases in state revenues as a result of the creation of a taxable asset, operation, or entity.
- Increased efficiency or quality as a result of turning the asset over to private sector management.

**Example:** A municipality which owns and operates an airport needs to increase revenues and reduce expenditures in order to avoid an

increase in taxes. The governing body votes to sell the airport to the private sector in order to raise money and reduce costs by obtaining cash from the sale, making the airport and its operations taxable, and eliminating the cost of its management and upkeep.

**Q:** What is a **build-lease-transfer** (BLT) transaction?

**A:** A build-lease-transfer transaction is a variation of a lease-purchase financing arrangement involving the construction of a capital improvement by a private developer who leases the facility to the public or private user after the completion of construction and ultimately transfers title to the user. This arrangement allows the public body to finance the purchase of the facility without having to go through the procedures associated with bond financing.

*Example:* The state engages a private developer to build a warehouse and maintenance facility. According to the terms of the agreement, the state rents the facility for several years before legal title is transferred.

**Q:** How do **build-operate-transfer** (BOT) projects work, and what are their advantages?

**A:** In a BOT project, the involvement of the private sector entity that builds the capital improvement does not end with the completion of construction and the making of final payment as it would in a conventional arrangement for public construction. Instead, the private sector builder is given a franchise which permits it to operate the new facility for a specified period. Transfer of legal title may occur at any time during the operations period, but ordinarily will remain with the private sector builder during the period of the franchise. During that time, the builder-operator is responsible for maintenance of the facility and is entitled to a financial return such as user fees. The opportunity for this additional return above and beyond what profit might be earned through the completion of the contract is a financial incentive which can make the project attractive enough for the private sector to provide all or part of the financing, allowing the state to avoid the need to raise funds.

*Example:* The Commonwealth of Virginia solicits bids on a BOT basis to build a new combined road and tunnel in the Hampton Roads area. A consortium of companies forms a new company which is awarded the project which includes a 30-year

franchise agreement covering design, financing, construction, operations and maintenance of the facility. The local transit authority commits to lease the facility for the entire franchise period. Companies participating as shareholders in the franchisee are awarded contracts for major portions of the construction work. With the exception of the administrative costs associated with soliciting the bids and negotiating the contract, no public financing is required.

The state engages a private developer to build a warehouse and maintenance facility. According to the terms of the agreement, the state rents the facility for several years before legal title is transferred.

**Q:** How does a **build-own-operate (BOO)** transaction work?

**A:** In a BOO transaction, the contractor is engaged to construct and operate a facility without transferring ownership to the public sector. Legal title to the facility remains in the private sector, and there is no obligation for the private sector to purchase the facility or take title.

*Example:* A Social Services Department engages a private developer to finance, build, own, and operate a day-care facility in an area where private facilities are not available. Dependents of state employees are guaranteed preference in filling available openings at guaranteed rates, but the owner-operator may use excess capacity to care for dependents of the local population at market rates.

**Q:** How does a **build-own-operate-transfer (BOOT)** transaction differ from a BOT transaction?

**A:** A BOOT transaction is a special form of a build-operate-transfer (BOT) transaction in which the private builder-operator retains legal title to the facility until the completion of the franchise period.

**Q:** How do **build-transfer-operate (BTO)** projects work, and what are their advantages?

**A:** In a BTO project, the private sector entity builds the facility and transfers ownership to the state at the outset of the operations phase, immediately after the completion of construction, taking back a lease and a long-term contract to operate the facility.

Operating revenue provides the required return on investment. Its advantages are similar to those offered by a build-operate-transfer (BOT) project, but the point of transfer of ownership occurs at the end of construction rather than at the end of the franchise period.

***Example:*** The state hires a company formed by a group of private sector investors to develop and construct a toll bridge.

After construction is complete, the state receives title, leases the bridge back to the bridge development company, and hires the company to operate the bridge and collect tolls for a specified period of time.

**Q:** What is a **buy-build-operate** (BBO) transaction?

**A:** A BBO transaction is a form of asset sale which includes a rehabilitation or expansion of an existing facility. The state sells the asset to a private sector entity which accomplishes the improvements that are necessary to operate the facility in a profitable manner.

***Example:*** The state sells an office building to a private developer who rehabilitates the facility and leases it back to the state. The developer accrues whatever tax benefits accompany ownership of the property, the state has a new source of tax revenue, and the state avoids the costs and procedures associated with financing a new office building project.

**Q:** What are **change in use** rules, and how do they affect privatization?

**A:** Change in use rules are IRS rules which govern the possible loss of tax-exempt status for debt issued to finance construction of a publicly owned facility if the facility is acquired by or operated by the private sector. As such, they will affect the financial feasibility of private sector acquisition or operation of the asset. In February 1997, the IRS published Revenue Procedure 97-13 (Rev. Proc. 97-13) to set forth the latest rules which create a "safe harbor" so that a service contract will not result in a private use of a bond-financed facility. Rev. Proc. 97-13 supersedes all prior regulations in this area and is effective for contracts entered into, modified or extended after May 16, 1997.

The new rules provide a degree of certainty and specificity

which has been missing from the public financial markets. The increase in the maximum permissible term for management contracts and the expansion of the number of projects able to access the change in rules will simplify the structuring process for many public-private partnerships and will make tax-exempt financing available for a greater number of projects.

**Regulations and related revenue procedures regarding change in use rules are complex and legal counsel should be consulted regarding the procedures.**

**Q:** What is the definition of a **commercial activity**?

**A:** Commercial activity means an activity performed by or for government that is not an inherently governmental activity and that is or could be obtained from a commercial source. Commercial activities represent competitive government opportunities. Refer to Appendix A for a general list of commercial activities.

**Q:** What is a **commercial source**?

**A:** A commercial source is any business or other private concern that is eligible for contract award in accordance with the Virginia Public Procurement Act.

**Q:** What is the Council's **competition process**?

**A:** The competition process is the process approved by the Commonwealth Competition Council to determine if a state function or service is a candidate for privatization/competition.

**Q:** What are **concession benefits and concession periods**?

**A:** Concession benefits are rights to receive revenues or other benefits for a fixed period of time which provide incentives to the private sector to participate in financing a capital improvement project. Concession periods are the time limits which are imposed on the private parties for the enjoyment of the concession benefit before it reverts to the government. This

is another term for franchising.

**Example:** The Commonwealth works with a corporation formed by a group of investors to develop new parking garage facilities in the Capitol Square. As part of the deal, the corporation is given the right to collect parking fees for a period of ten years.

**Q:** What is **contracting out**?

**A:** Contracting out is the state approach to providing publicly oriented services or accomplishing activities with a public purpose by contracting with independent private contractors to accomplish the task rather than using state employees. Contracting out is another term for outsourcing.

**Example:** A state agency which wants to lower its cost and improve delinquent tax collections solicits proposals from professional collection agencies to collect delinquent taxes owed to the state. The Council's competition process is a method to evaluate whether contracting out is an effective method to perform the function.

**Q:** What does **consolidation** mean?

**A:** Consolidation represents a movement in which similar state functions or activities performed in several agencies are consolidated into one agency to lower costs and improve efficiency. This is sometimes referred to as insourcing.

**Example:** A state agency prints 500,000 documents on its mainframe laser printer for another state agency with volume expected to increase to nearly two million documents annually. Consolidating this work allows the second state agency to avoid a one-time outlay of significant funds for their own mainframe laser printer while maximizing the use of the first agency's printer. Subsequently, the second state agency determines that it is in its best interest for cost savings and efficiency to consolidate all its printing requirements with the first state agency.

**Q:** What is meant by the term **conversion to contract**?

**A:** A conversion to contract is the change of performance of a commercial activity from in-house performance by government employees to performance by a commercial source.

**Q:** What is meant by the term **conversion from contract**?

**A:** Conversion from contract means the change of a commercial activity from performance by contract with a commercial source to performance by government employees with public resources.

**Q:** Is **corporatization** the same thing as privatization?

**A:** Corporatization is one form of privatization. It is a method whereby a state agency or function is turned into a privately owned corporation through an employee stock ownership plan (ESOP) or other financial transaction such as an asset sale or a sale of stock which leads to private ownership of the "business" involved. Refer to employee stock ownership plan (ESOP) in this document for further definition.

*Example:* A Department of Highways wishes to interject competition into its system for the maintenance of local roads. Instead of terminating all its road maintenance managers and crews and contracting out for all its road maintenance work, the department works with them to organize their own corporation which will compete with private firms for the work. Alternatively, the department may work with existing private firms to sell the maintenance system to the private sector and enter into an initial contract which will be recompeted by the department in later years.

**Q:** What is the **Cost Comparison Program ("COMPETE")** and why should it be used?

**A:** The Cost Comparison Program ("COMPETE"), which is similar to activity-based costing, was designed and developed by the Commonwealth Competition Council to assist agencies and institutions in calculating both the fully allocated cost and unit cost of services and functions. "COMPETE", which is a necessary step in the competition process, is an automated PC-based program that assists in the determination whether a service or function should remain in-house or be

outsourced. The program is not released outside Virginia government.

**Q:** What is **customerizing**?

**A:** Customerizing is a term referring to actions taken to help an organization provide better service to its customers. It is similar to the term performance measures.

*Example:* A police dispatch unit center works toward goals calling for a reduction in the amount of time required to respond to 911 calls.

**Q:** How do **design-build-operate (DBO)** projects work, and what are their advantages?

**A:** In a DBO project, a single contract is awarded for the design, construction, and operation of a capital improvement. Title to the facility remains with the state government. A design-build approach creates a single point of responsibility for design and construction and can speed project completion by making it easier to overlap the design and construction phases. The operations phase is normally handled by the state or awarded to the private sector under a separate operations and maintenance agreement.  
See DGS BCOM Manual

**Q:** How can the sale of **development rights** facilitate privatization?

**A:** By selling development rights as part of a total project package, the state can raise funds from the private sector that can be used to develop capital improvements which can enhance the value of areas surrounding the project.

*Example:* The state intends to rehabilitate an intercity railroad station. In order to help finance the project, the state sells rights to develop property surrounding the location of the new station which will be built.

**Q:** Is **devolution** a form of privatization?

Devolution is not a form of privatization, although it could



**A:** lead to privatization. It is the transfer of a function from a higher level of government to a lower level of government, usually from federal to state, although it could be from state to local.

**Example:** If the federal government were to stop managing job training programs and provide funds to the states through block grants intended to be used for the same purposes, some states might choose to privatize this new function by contracting out the block grants or to provide vouchers to trainees.

**Q:** What is an **employee stock ownership plan (ESOP)**?

**A:** An ESOP is a qualified employee benefit plan primarily used for retirement purposes. An ESOP is governed by the federal Employee Retirement Income Security Act (ERISA), which gave ESOPs statutory framework in 1974. ESOPs are a form of a stock bonus plan designed to make a broad spectrum of employees stockholders in the sponsoring company. An ESOP may be used whether the organization is already in the private sector or in the public sector, and is in the process of making the transition to private sector ownership. When the ESOP technique is applied in the public sector, it is a form of privatization. ESOPs have been used as a means of privatizing government agencies in foreign countries. In the United States, ESOPs have been primarily used in restructuring private corporations, but have a role in providing government services. ESOPs are advocated as a means of improving performance of an organization by giving its employees a stake in the operation. Senate Document No. 12 (1998), is the ESOP study conducted by the Council. The study embraces ESOPs as a privatization/competition opportunity for performing government services.

**Example:** This is an actual example. When the U.S. Office of Personnel Management decided it was necessary to reduce the cost of its division performing background investigations, an implementation plan was developed to form a new private organization to serve the needs of its customers while providing financial stability and opportunity for its employees. This vision was converted to reality with the creation of US Investigations Services, Inc. (USIS), which commenced operations in July 1996. The 700 former federal employees now own the largest private investigations company in North America. In its new corporate form, the company is profitable, has significantly reduced the cost of

investigations to its customers, and the value of employee stock increased over 10 fold in less than two years. The USIS website is: [www.USIS1.com](http://www.USIS1.com).

**Q:** What is **franchising**?

**A:** Franchising is the granting of a special privilege to conduct business operations in a particular market. In the context of privatization, it would involve a government grant to a private entity of a right to provide services or to build or operate a facility with a public purpose. Some degree of exclusivity must be conferred with the franchise in order for the private party to reasonably evaluate the potential levels of return offered by the project. This technique is also referred to as granting concession benefits.

*Example:* A Department of Public Works uses a build-operate-transfer (BOT) approach in the development of a highway intended to be operated as a toll road. The state grants the developer the exclusive right to collect tolls. As part of the franchising agreement, the state agrees not to open competing routes for a certain period of time.

**Q:** What does **fully allocated cost** mean and how does it relate to privatization/competition?

**A:** The fully allocated cost of performing a service or providing goods is the cost that includes all direct full-time and part-time personnel costs; materials; supplies; equipment purchases; capital and equipment depreciation cost; rent; maintenance and repairs; utilities; insurance; travel; operations overhead; and general and administrative overhead, all of which are defined in the Council's Cost Comparison Program ("COMPETE") user's manual. This cost is sometimes referred to as the true cost.

The development of the fully allocated cost is a necessary step in the competition process. Since governmental budgeting is developed on a cash basis and not an accrual basis, the budget cost does not reflect the full costs of performing government services. This full cost is required for informed comparison decisions with private sector costs to perform the service. The "COMPETE" software is not released outside of Virginia government.

**Q:** What are **government/quasi-government** corporations?

**A:** These type of corporations have a mix of private and public characteristics. Possible forms of corporate organization include government ownership of all or part of the equity, and government sponsorship through some form of financial backing. They differ from ordinary agencies in their budgeting methods, their rights to operate as an independent entity, and their forms of governance.

*Example:* The Virginia Port Authority is a corporation owned entirely by the state, run by a Board of Commissioners appointed by the Governor, financed by user fees, and included in the Appropriation Act.

**Q:** What is a **government-owned contractor-operated (GOCO)** facility?

**A:** In contrast to a typical public sector facility which is owned and operated by the government, a GOCO facility is owned by the government but run by a private sector firm pursuant to a management and operations contract.

*Example:* Many sport coliseums are built with public funds and then managed and operated by private firms that specialize in securing both sport and other events for the facility.

**Q:** What is an **inherently governmental activity**?

**A:** An inherently governmental activity is one that is so intimately related to the public interest as to mandate performance by government employees. Activities that meet this criteria are not in competition with a commercial source.

*Example:* State police patrols are inherently governmental activities.

**Q:** How does a **lease-develop-operate (LDO)** transaction work?

In a LDO transaction, the state would lease a facility and

**A:** surrounding land to a private developer. The state enters into a long-term agreement to expand and develop the facility under a contract which calls for revenue sharing between the developer and the state.

*Example:* The state with a run-down facility enters into a long-term lease with a private developer of property surrounding the facility which allows the developer to develop and operate a retail complex near the facility. The project improves the facility, creates a tourist attraction, and generates tax revenues for the state.

**Q:** What is **lease-purchase financing**?

**A:** Lease-purchase financing is, in effect, the private securitizing of government installment purchase obligations. As lessee, the state makes scheduled payments, and equity in the equipment or facility being purchased accrues to the state with each payment. Typically, the state will own the equipment or facility at the end of the lease term when all payments have been made, however, title can transfer at an earlier time as the parties mutually agree.

Private investors purchase the state debt in the form of certificates of lease participation which offer returns that are exempt from federal taxation. This method of financing is used as a means of shifting responsibility for financing major equipment or facilities from the state to the private sector in situations where the essential nature of the purchase gives the lenders confidence that the state will make the necessary lease payments. This type of transaction does not require voter approval as in a general obligation bond issue, but usually requires a non-appropriation clause in the transaction documents since the state cannot guarantee payments beyond the Appropriation Act in effect at the time of the transaction. Lease-purchase financing is also known as tax-exempt lease-purchase financing.

*Example:* A Department of Public Works enters into a lease-purchase agreement for the procurement of electronic toll facilities, thereby shifting the responsibility for the financing and maintenance of the system to the private sector.

**Q:** How does **leveraged leasing** work?

**A:** In a leveraged leasing arrangement, the owner of a capital facility obtains the tax benefits of ownership of an asset by arranging debt financing and leasing the facility to a party who pays rent from revenues generated by the facility.

*Example:* A group of private investors borrows money to rehabilitate a highway and convert it to a toll road, leasing the road to a separate toll road development firm. The lessee uses toll receipts to pay the rent, which the owner/investors use to service the debt, and the owner/investors take advantage of any available tax deductions and credits associated with ownership and debt repayment.

**Q:** What is a "make or buy" analysis?

**A:** A "make or buy" analysis is undertaken by a state agency to determine how much it costs to perform a function with state personnel as compared to contracting with an independent contractor from the private sector. The Cost Comparison Program ("COMPETE") is used to develop the fully allocated cost of a government function to compare the cost with a independent contractor. It is a step in the Council's competition process.

A "make or buy" analysis is recommended for many commercial activities that are put out to bid or for which a RFP is requested. They may also be required from an unsolicited proposal pursuant to §§ 9-346 and 9-347 of the Code of Virginia. An important purpose of a "make or buy" analysis is to introduce managed competition into performance of the function and to generate tax savings. See DPS manual

*Example:* A state agency develops the current fully allocated cost for the maintenance and operations of a major state facility and issues an RFP with a performance work statement (PWS) for private sector proposals. After scrutiny of its fully allocated cost, the agency also responds to the PWS in the RFP with its most efficient organization (MEO) proposal which may differ from its current approach to the task in question. The cost of the MEO is compared against private sector proposals and the most cost-effective alternative is chosen.

How does **managed competition** work?

**Q:**

**A:**

Managed competition allows a state agency to compete with private sector providers for the right to perform public services which may or may not lead to contracting out for services. Based on a performance work statement (PWS) developed for private sector proposals, the state agency submits its most efficient organization (MEO) and corresponding cost estimate which will compete directly with the private sector proposals.

*Example:* This is an actual example. In 1978, the Department of Public Works in Phoenix, Arizona began to compete with private companies for the city's refuse collection business. After losing the first five bids for various refuse districts to private companies, the Department and its employees developed new most efficient organizations (MEOs) to its work which included better equipment, smaller crew sizes, redesigned routes, and performance incentives. As a result, it won back all five districts, the quality of services and worker morale improved, and costs to the city declined.

**Q:**

**A:**

What does **most efficient organization (MEO)** mean?

This is a term related to managed competition. It means the reengineered or reorganized organization that is proposed by a state agency to compete with the private sector to perform a commercial activity. It is based on the performance work statement in a RFP.

*Example:* The example described above in Phoenix, Arizona represents the approach to developing the most efficient organization.

**Q:**

**A:**

What is meant by "**mining the balance sheet**"?

It is a term used to describe various methods of improving the financial status of public or private sector organizations through transactions designed to extract untapped value existing in their assets.

*Example:* Examples of this approach as it applies to improving a government's financial picture include asset sales, sale-leaseback arrangements and wraparound

additions.

**Q:** What is a **natural monopoly**?

**A:** A natural monopoly is thought to exist because it offers the most efficient market structure and because a competitive market would create inefficiencies that would be detrimental to the public welfare. As a substitute for the discipline of the marketplace, and as a means of preventing predatory practices, natural monopolies are sometimes owned by the government and highly regulated in terms of operations, pricing, and profits.

*Example:* For years, child support enforcement was considered the province of government only. In recent years, however, competition has been introduced into the marketplace and now private companies compete for contracts with the states to run successful private child support enforcement offices meeting the regulatory requirements at attractive prices.

**Q:** What is **overhead** and why should it be considered in privatization/competition activities?

**A:** Overhead includes the indirect costs that are not directly attributable with performing a state service or producing goods. These indirect costs include depreciation, operations overhead, and general and administrative overhead which includes a number of supporting functions.

In comparing state costs with private sector costs, it is necessary to compute state overhead costs to ensure a level playing field with the private sector.

Details and the method of calculating overhead costs are found in the Cost Comparison Program ("COMPETE") User's Manual.

The "COMPETE" program is not released outside of Virginia government.

**Q:** What is **outsourcing**?

**Q:** What are performance-based contracting incentives?

**Example:** An agency engages a private sector firm to provide custodial services using a contract which specifies the required tasks in broad performance terms and provides for payment based on cost-reimbursement plus an award fee that increases the contractor's compensation depending on the quality of the contractor's performance. Performance quality is judged by criteria including quality of work, responsiveness and productivity.

**Q:** What are **performance measures** and how do they relate to privatization?

**Example:** Instead of deciding how much money it wants to spend on road maintenance and appropriating that amount of money to the Department of Public Works, the City Council sets measurable goals for various specific levels of road maintenance. The Department managers respond with a statement of what it will cost to achieve the specific goals, and the General Assembly decides what will be required.



Performance measures can also be applied to private contractors working for state agencies in cases of contracting out.

The Council's Cost Comparison Program ("COMPETE") is a tool to determine the performance measure of the cost of a per unit of output. "COMPETE" is not released outside of Virginia government.

**Q:** Is a **performance standard** different than a performance measure?

**A:** Yes. A performance standard reflects the minimum, sector-specific, requirement for the performance of a commercial activity. It incorporates both quality measures and cost measures. Cost measures reflect the cost comparability procedures in the Cost Comparison Program "COMPETE" to assure equity in the comparison of state performance standards with private sector standards.

*Example:* In developing the fully allocated cost of its payroll operations, a state agency determines that it costs an average of \$9.03 to issue a payroll check. The American Payroll Association indicates that its standard to issue a payroll check is \$7.65. This is an indication that the state agency should take appropriate action to provide this service at the lower per unit payroll cost.

**Q:** What is a **performance work statement (PWS)**?

**A:** A performance work statement is a statement of the technical, functional and performance characteristics of the work to be performed. It identifies the essential functions to be performed, determines performance factors, the units of work, the quantity of work units, and the quality and timeliness of the work units. It serves as the scope of work in a RFP and is the basis for the cost comparison of providing the service by the state or by a commercial source.

**Q:** What are **private activity bonds (PABs)**?

**A:** See qualified private activity bonds (PABs).

**Q:** What does the term **privatization/competition** really mean?

**A:** The Virginia Government Competition Act of 1995 (Title 9, Chapter 45, Code of Virginia) describes "privatization" as a variety of techniques and activities which promote more involvement of the private sector in providing services that have traditionally been provided by government. It also includes methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector. Also see definition of managed competition.

*Example:* Examples of activities occurring in Virginia state government include: the private construction, management and operations of select state prisons; private operations of select child support enforcement offices; and the asset sale of the Virginia Education Loan Authority to a private servicing firm.

**Q:** What is **public purpose debt**?

**A:** Public purpose debt is traditional debt used to finance a project intended to be of value to the general public. It can include ordinary government securities such as general obligation bonds or revenue bonds as well as qualified private activity bonds (PABs). Numerous non-traditional examples used to finance public projects are included in the previous examples.

*Example:* A general obligation bond is the traditional finance method to build public schools. Another effective non-traditional method to finance the schools would be a lease-purchase financing transaction.

**Q:** What is a **public-local government partnership**?

**A:** A public-local government partnership occurs when several organizations in the public sector share a common interest with the state in the success of the venture. It is a joint venture in which state and local government resources are pooled in a joint effort.

*Example:* The Department of Health develops a

community-based health education program with local governments in which the state and local governments share the cost of the program.

**Q:** What is a **public-private partnership**?

**A:** A public-private partnership is a partnership in which government and the private sector share a common interest in the success of the venture. It is a joint venture in which state and private sources are pooled in a joint effort.

*Example:* The public-private partnership between Virginia Correctional Enterprises and private firms yields benefits for all involved parties. State agencies are receiving more and better products and the prison inmates are receiving valuable training. The private firms are providing additional sales techniques and customers for the products and they are now able to compete in what previously was a state monopoly. At the Department of Motor Vehicles, private auto dealerships are working directly with the Department to provide car sales information via computer, saving time and money for customers.

**Q:** What is a **public-private performance analysis**?

**A:** A public-private performance analysis is an important step in the competition process in order to determine whether a commercial activity should undergo competition with the private sector. §§ 9-346 and 9-347 of the Code of Virginia are the legislative cites to perform a public-private performance analysis.

**Q:** What are **qualified private activity bonds (PABs)**?

**A:** Qualified PABs are instruments of indebtedness which are exempt from federal taxation when they satisfy certain requirements of the Internal Revenue Code (IRC). They include bonds issued to finance the construction of certain public purpose facilities and infrastructure projects. The private activity bond regulations issued on January 10, 1997 by the IRS facilitate more utilization of public-private partnerships for projects with tax-exempt bonds.

The new IRS regulations on management contracts and change in use rules create new safe harbors providing assurance that private operation or ownership of a facility will not cause the bonds financing the facility to become taxable. The new rules create expansion of opportunities for the private sector to enter into long-term contracts to operate and manage state facilities or buy state assets.

**Regulations and related revenue procedures regarding these rules are complex and legal counsel should be consulted regarding the procedures.**

*Example:* The New Jersey Economic Development Authority provided \$100 million in tax-exempt financing for the private development of a water supply project serving three counties by using private activity bonds. The use of tax-exempt bonds resulted in millions of dollars in savings for the consumers.

**Q:** Is **quality assurance** a function of contract administration?

**A:** Yes. Quality assurance and performance reviews are contract administration methods by which state management will supervise in-house or contract performance to ensure that the performance standards in the performance work statement (PWS) are met within the costs proposed. Quality assurance and performance reviews are an integral part of the monitoring step in the Council's competition process. The cost associated with contract administration is included in the Cost Comparison Program ("COMPETE"). "COMPETE" is not released outside of Virginia government.

**Q:** What does the term **qualified use** mean?

**A:** A qualified use is any use of the proceeds of an issue of state or local bonds which satisfies all the requirements of the Internal Revenue Code. Refer to qualified private activity bonds (PABs).

**Q:** What is the purpose behind **regulation of user charges and rates of return**?

A private developer of a project used for public purposes

**A:** will want to have maximum flexibility in determining user charges in order to maximize the rate of return on investment.

In order to prevent certain pricing practices which might be considered by the public to be an unfair use of a monopoly franchise, or in order to encourage certain types of use, a government may limit the developer's ability to set user charges, or may limit the permitted rate of return to an amount sufficient to ensure the financial viability of the project.

*Example:* As part of a transaction granting a private franchise to build and operate a toll road, the state requires toll pricing which would encourage car pools, prohibit tolls above a certain price, and limit the overall rate of return to a certain percentage above which profits are returned to the state.

**Q:** What is **risk unbundling**?

**A:** Risk unbundling is a means of facilitating the development of public-private partnerships for the development of capital improvement projects.

It calls for the segregation of private and public risks with the private sector preferring to assume those risks which are commercial in nature and which can be appraised and controlled, and leaving the residual risks to the government.

**Q:** What is the purpose of **sale-leaseback** arrangements and how do they work?

**A:** Under a sale-leaseback arrangement, the owner of an existing asset sells the asset for needed cash to another party who leases the asset back to the seller. If the owner is the state and the buyer is a taxable entity, the buyer can take advantage of certain advantages which accompany ownership. The new owner will often finance the purchase with long-term debt secured by the lease from the state.

*Example:* The state sells an underutilized building to a private developer who renovates it and leases it back to the state. The state receives cash from the sale of the building, tax revenues generated from private ownership, and the private developer capitalizes the building and gets the tax

advantages of depreciation on the building.

**Q:** What is a **service contract**?

**A:** A service contract is a means of financing facilities or equipment used for a public purpose. Pursuant to such a contract, a private firm will provide a facility or equipment to the state for its use in return for agreed compensation. Unlike a build-operate-transfer (BOT) transaction or a lease-purchase financing arrangement which shifts title to the state, the contract resembles a build-own-operate (BOO) transaction and makes no provision for the transfer of title to the state. Advantages to the state include treating contract payments as operating expenses rather than long-term debt, and avoiding a voter referendum. The private firm retains tax benefits associated with ownership.

***Example:*** A private developer enters into contract with the Hampton Roads Sanitation District to provide water storage space. To fulfill the terms of the agreement, the developer designs and builds a water tower designed to be suitable for other commercial purposes when the term of the service contract expires. The District's payments are based on the cubic feet of water stored in the tower. At the end of the term, the parties could negotiate an arm's length agreement for the sale of the tower based on its fair market value.

**Q:** What does **service shedding** mean?

**A:** Service shedding means the state stops providing the service leaving it entirely to the private sector. It is similar to a spin-off, or getting out of the business.

***Example:*** The Commonwealth of Virginia sold the assets of the Virginia Education Loan Authority (VELA) for \$59.3 million. The trends in the student loan marketing business rendered VELA as redundant.

VELA, which had made guaranteed student loans to Virginia residents, was sold to Sallie Mae, a federal government corporation. The proceeds of the sale were deposited in the General Fund of the Commonwealth.

**Q:** What is a **spin-off**?

**A:** In the context of privatization/competition, a spin-off is a financial transaction that turns a government function over to the private sector through corporatization. This approach to privatization/competition is most feasible when there are users who create a market demand for the function and have the ability to pay for it.

A spin-off is similar to service shedding. As stated in the executive summary of the Commonwealth Competition Council's 1996 Annual Report to the Governor and General Assembly, "if the business function or service is not or cannot remain competitive, service shedding is implemented through abolishment, consolidation, outsourcing to other private entities, sale, or spin-off of the operation."

**Example:** The U. S. Enrichment Corporation was created as a government corporation with all its common stock held by the U. S. Government.

Through a public offering of the stock, the government did a spin-off and privatized the corporation.

**Q:** What is the definition of a **state agency** in the Commonwealth of Virginia?

**A:** The Virginia Government Competition Act of 1995 (Title 9, Chapter 45, Code of Virginia) defines a state agency as any board, council, authority, department, agency, or institution of the Commonwealth which employs state or nonstate personnel.

**Q:** What is the **third sector**?

**A:** The third sector, which is also called the voluntary sector, is a concept used to refer to that portion of society which is made up of voluntary and nonprofit organizations as opposed to government agencies and private firms that are for profit. Because the mission of third sector organizations is to meet social needs rather than to accumulate wealth, they can often be used instead of the private sector as a substitute for the government in providing needed goods and services.

**Q:** What is an **unsolicited proposal**?

**A:** An unsolicited proposal is a proposal voluntarily submitted from a private firm that believes it can offer its commercial activity more cost-effectively, efficiently, or with improved quality than the same service provided by a state agency. It is not a proposal submitted in response to an official Request for Proposals. Unsolicited proposals are treated pursuant to § 9-346 of the Code of Virginia.

**Q:** What is the **voluntary sector**?

**A:** The voluntary sector is another term for the third sector.

**Q:** What are **vouchers** and what can they be used for?

**A:** Vouchers are government financial subsidies given to individual citizens for use in purchasing or paying for specific goods or services from the private or public sector.

*Example:* A frequent use of vouchers is in the field of elementary and secondary education. Instead of providing one system of public schools for the taxpayers, state government could issue vouchers which could be used toward a variety of school choices.

**Q:** What is a **wraparound** addition?

**A:** In the case of a wraparound addition, the government owns a facility which is to be expanded. As part of the expansion, the builder of the new addition receives title to the addition as well as a contract to operate the entire facility.

*Example:* A municipal water authority contracts with a private party to construct additional facilities at its waste water treatment plant. The contractor keeps title to the new



addition to the plant and manages plant operations as part of the overall transaction.

## Appendix A

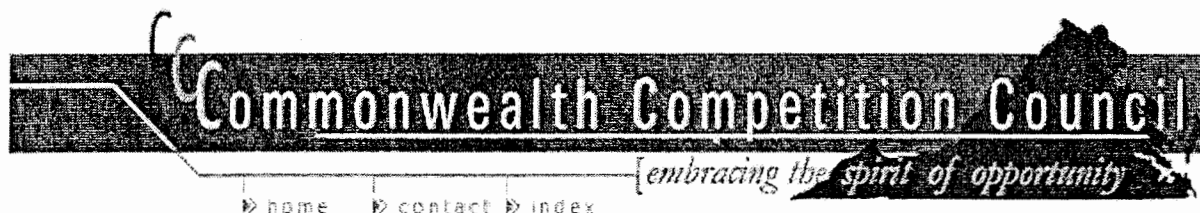


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Virginia is the first state in the nation to study if ESOPs are viable for state and local government. The importance of this is that for the first time a state is recognizing ESOPs as a method to privatize government functions due to the potential benefits for employees, citizens, and state and local government.

The Virginia General Assembly unanimously passed Senate Joint Resolution No. 103 during the 1998 legislative session supporting ESOPs as an effective and viable privatization method to provide state and local government services and functions to the citizens of the Commonwealth.

- [Employee Stock Ownership Plan \(ESOP\) Information and Process Guide](#)  
How an ESOP can benefit the Commonwealth of Virginia, the citizen/customer, the ESOP company, and its employee owners
- [Companies with ESOPs See Better Performance](#)
- [Virginia ESOP Education Service](#)
- [The Voice of the ESOP Association](#)
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#### Potential Advantages of ESOPs

#### To the state and local government:

- Increase in tax revenues
- Increase in private sector employment
- Reduction in cost of service
- Reduction in public payroll



**To the citizen/customer:**

- Lower cost of service
- Improvement in customer service
- Gain in employee productivity
- Proven motivator
- Builder of unity and team spirit

**To the company:**

- Tax savings
- Increase in cash flow
- Pre-tax dollars repay debt
- Tax-deductible dividends
- Increase in net worth

**To the employee/owner stockholders:**

- Creates liquidity at fair market value
- Employees share in company's equity growth
- Company ESOP contributions larger than profit-sharing contributions
- ESOP accounts accumulate tax-free
- 401 (k) plans enhanced with ESOPs
- Employees realize dividend income

**The Voice of the ESOP Association**

**May 1998**

*The ESOP Report is published 11 times a year by The ESOP Association, the national non-profit association of employee-owned companies and ESOP practitioners, located at 1726 M Street, N.W., Suite 501, Washington, D.C. 20036-4507*

[www.the-esop-emplowner.org](http://www.the-esop-emplowner.org)

- Employee owners give ESOPs Positive Marks
- Virginia Legislature Unanimously Approves ESOP Measure

**Employee owners give ESOPs Positive Marks** *Survey Shows Satisfaction with ESOP, Company Performance*

For the sixth consecutive year, ESOP companies have given favorable marks to their ESOP and its effect on their companies' performance.

In a survey conducted recently by The Employee Ownership Foundation of more than 500 companies with ESOPs, 82 percent of respondents said they thought their company made a *"good decision that has helped the company."*

But these high marks by employee owners aren't new. In the past six years the foundation has conducted the survey, the responses have continually been at or above 80% that the decision to establish an ESOP was a good one.

*"We've seen numbers like this before,"* said Michael Keeling, president of The ESOP Association, *"but these results reiterate the belief that companies have about their ESOP. They believe it's a positive thing for the company."*

Only three percent of responses said the ESOP was a bad decision, the other 15% responded that the decision had no effect.

A 51% majority of respondents also indicated that their company's ESOP had improved the employee productivity, with only one percent indicating the ESOP had harmed productivity, and the other 47% indicating no discernable effect.

The responses also indicated that ESOP companies are thriving, possibly more so than non-ESOP companies, in the booming economy. 70% of the more than 500 respondents said their company's performance was better than in 1996. And 77% said their ESOP company had a sales increase from the previous year. More than 350 respondents, or 65%, said their company had a profitability increase from 1996.

The Employee Ownership Foundation is a public, tax exempt research and education entity affiliated with The ESOP Association. Contributions to the foundation to fund projects such as this annual survey are tax deductible.

### **Virginia Legislature Unanimously Approves ESOP Measure**

The most significant approval of ESOPs from a state legislature in recent years was recently given by the Commonwealth of Virginia Legislature.

The resolution, which passed unanimously both houses of the Virginia Legislature, calls for the state government to support *"ESOPs as an effective and viable privatization method to provide state and local government services and functions to the citizens of the Commonwealth."*

The legislation, which passed the Senate on February 11 and the House March 12, also calls ESOPs *"an excellent financial tool" which "can result in significantly enhanced employee motivation and corporate productivity."*



**Cost Comparison Program "COMPETE"**

Taskforce on Commercial Activities of Charitable Organizations

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**Commonwealth of Virginia  
Commonwealth Competition Council**

**Public/Private Performance Analysis Submittal**

Agency Name		Code	
Agency Address			
Telephone		Fax	
Date of Submittal			

Description of function or activity under consideration

Code of Virginia statute establishing this agency/institution:	§§
	§§

Funding source and percent of funding for this function/activity:

General ☐ %      Federal ☐ %      Special Revenue ☐ %

Other (please specify): \_\_\_\_\_ %

Cite item number(s) of the current Appropriation Act: \_\_\_\_\_ (19 )

Signature of Preparer: \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Signature of Reviewer: \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Signature of Agency Head or Head of Institution:	Recommended for competition
<div style="margin-left: 100px;">Printed Name _____</div> <div style="margin-left: 100px;">Title _____</div> <div style="margin-left: 100px;">Date _____</div>	<div style="display: flex; justify-content: space-around;"> <span>Yes</span> <span>No</span> </div> <div style="display: flex; justify-content: space-around;"> <input style="width: 50px; height: 20px;" type="checkbox"/> <input style="width: 50px; height: 20px;" type="checkbox"/> </div>

# **Commonwealth of Virginia Commonwealth Competition Council**

## **Public/Private Performance Analysis**

### **Methodology to Evaluate Competition Opportunities**

- Level 1**            Three main steps to determine whether a function, task, operation or activity should undergo competition with the private sector:
- I.        Analyze the potential for competition
  - II.       Estimate the cost of the activity to the government
  - III.      Consider the public policy issues best serving the public safety and welfare of Virginia citizens
- Level 2**            Two steps in planning and implementing the competitive process:
- IV.      Plan the necessary procedures
  - V.       Implementation

These steps should be viewed as guides to assess competition opportunities. Not all questions, factors or analysis are applicable to every analysis. At the conclusion of each step, if the review of the activity continues to lend itself to a competitive effort, it is appropriate to proceed to the next step. If this is not the case, the reason(s) that would prohibit continued evaluation must be provided at the end of Level 1.

## Level 1

### I. Analyze the Potential for Competition

The objective of this analysis is to assess whether the specific activity lends itself to competition.

The questions and factors below are general in nature and are meant to ascertain whether more specific and serious analysis is warranted. The responses to these questions should be "yes" in order to proceed further for more serious evaluation. However, a "no" to one of the questions does not necessarily preclude going forward, but special consideration(s) may be required to assure success.

PLEASE CHECK THE APPROPRIATE ANSWER FOR THE FOLLOWING QUESTIONS:

	Yes	No
1. Can the service be, or is it already, available from the private sector?		
2. Is there more than one private contractor capable and interested in providing the activity to ensure competition?		
3. Can the activity or function be specified in advance with clear objectives and outcomes?		
4. Can the delivery of the activity be measured adequately to monitor performance?		
5. Is the economical delivery of the service more important than control and/or accountability?		
6. Would the funds/revenues presently available continue to be available if the private sector performs the activity?		
7. Can the private sector implement and deliver the activity quicker?		
8. Does the agency/institution have the ability and resources to manage/control/regulate the contract?		
9. Is the total function /activity suitable for contracting out?		
10. Are there current legal or regulatory barriers to contracting out the service?		
11. Will the agency/institution submit a proposal to perform the service?		

Provide explanation for negative answers in Section I above by specific number:

--



## Level 1

### II. Estimate the Cost of the Activity to the Government

The objective of this section is to determine what it costs government to perform the activity and what future costs government can avoid by transferring the activity to the private sector during the course of the proposed contract.

Please provide estimated costs of the government activity for the base contract plus all option years for the following categories:

- personnel costs (full and part-time positions, including salaries, overtime, fringe benefits, etc.)
- operating costs (repairs and maintenance, vehicles, equipment, rent, utilities, materials and supplies, travel)
- capital costs (present and anticipated)
- capital leases
- insurance/liability costs
- operations overhead<sup>1</sup> costs
- general and administrative overhead<sup>2</sup> costs
- any other costs related to providing the service not included above

Total estimated government costs for base year plus option years:

Cost Category	State Performance Costs	Contract Administration and Support Costs <sup>3</sup>	Future Costs Eliminated If Activity Transferred To Private Sector
Personnel costs			
Operating costs			
Capital costs			
Capital leases			
Insurance/liability costs			
Operations overhead <sup>1</sup>			
General and administrative overhead <sup>2</sup>			
Any other costs related to providing the service not included above			
Total	0	0	0

Estimated contractor cost to provide service for base contract plus all option years

\$

<sup>1</sup>Operations overhead is the cost incurred in support of the function by the supervisory workforce one level above the studied function.

<sup>2</sup>These are support costs, other than operations overhead, incurred in the support of the studied function. Examples are accounting functions, human resources, data processing and procurement.

<sup>3</sup>Estimated costs to assure contract compliance (contract payments, reviewing contract compliance).

## Level 1

### III. Consider the public policy issues best serving the public safety and welfare of Virginia citizens

The objective of this analysis is to determine if the services can be transferred to the private sector without public harm. The evaluation should address the following issues:

	Yes	No
1. Can the private contractor be replaced relatively easily during the term of the contract?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the economical delivery of the service more important than control and/or accountability?	<input type="checkbox"/>	<input type="checkbox"/>
3. Can the contract provide for the transfer of liability/or risk?	<input type="checkbox"/>	<input type="checkbox"/>
4. Is the public safety and/or welfare of the citizens protected in case of default?	<input type="checkbox"/>	<input type="checkbox"/>
5. Is the proposed privatization activity consistent with State law, rules and regulations?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the total function suitable for competition with the private sector?	<input type="checkbox"/>	<input type="checkbox"/>
7. Has the service been successfully contracted out in other public entities? Please identify: _____	<input type="checkbox"/>	<input type="checkbox"/>

#### Detailed Explanation

Provide explanation for negative answers in Section III above by specific number:

--

If the function is not recommended for competition, please provide rationale and detailed explanation:

--

## Level 2

The following are considerations in preparing the necessary procurement documents.

### IV. Plan the Necessary Procedures

The objective of this step is for the agency to evaluate the parameters of the proposed competition. This evaluation should address issues such as:

- Timing
  - Are there issues raised from Level 1 that need to be resolved prior to proceeding?
  - Does the timing of the competition effort affect potential cost savings?
  - How long will it take to award a contract?
  - What is the specific time schedule required to implement the contract?
- Personnel
  - What is the transition plan if contracting out the function impacts on State employees?
  - Will current State employees have an opportunity to present a proposal?
  - Will the private vendor be required to offer the right of first refusal or absorb existing State employees?
  - Can internal reorganization and different management techniques accomplish the same or similar goal?
- Cost
  - Is there a savings goal, short and long-term, without which privatization will not be considered?
  - Have performance measures been developed for this activity?
- Agency Impact
  - Does the privatization of this activity affect other programs and responsibilities (for example, other State agencies, departments)?
  - Are there alternative public solutions?
- Other
  - What is the best way to structure the competition (lease, contract, sale, partnership, pilot program)?
  - What process will be put in place to take over activity in case the contractor fails?

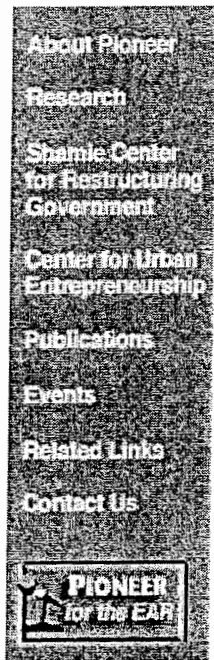
## Level 2

### V. Implementation

- Prepare Request for Proposal (RFP) and/or prepare proposal specifications
- Conduct procurement
- Review RFP responses
- Evaluate technical, cost realism and management issues of private performance vs. public performance
- Establish quality assurance oversight procedure or implement most efficient government organization
- Prepare required transition plan

Identify and discuss any barriers or impediments identified in Level 2.

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Educational Excellence



Effective Public Management



Economic Opportunity



Emerging Issues

## Shamie Center for Restructuring Government

[Center Overview](#) • [Better Government Competition](#) • [Publications](#) • [Advisory Board](#) • [Links](#)

### Center Overview

The Shamie Center for Restructuring Government, begun in 1997, focuses on finding ways to streamline state and local government by introducing competition to service delivery, eliminating unnecessary regulation, and refocusing government on its core functions. The Center is named in honor of the late Ray Shamie, a long-time Pioneer board member. In his work as a humanitarian, philanthropist, entrepreneur, and political activist, Ray Shamie personified the values of freedom, personal responsibility, and competition that are the foundation of the center's work.



*Ray Shamie (left) with Pioneer Institute founding chairman Lovett C. Peters in 1998 when Ray was presented with Pioneer's Tenth Anniversary Gold Medal.*

In pursuit of its goals, the Center:

- Conducts the acclaimed annual [Better Government Competition](#), a citizens' ideas contest on ways to improve government operations
- Publishes research under Pioneer's [White Paper](#) series that provides practical recommendations to policy makers
- Sponsors policy forums, conferences, and other events
- Publishes a regular [newsletter](#)
- Contributes [commentaries](#) to state and national newspapers and [testifies](#) before the Massachusetts Legislature on pending governmental reform issues

These activities are designed to take ideas about streamlining government that were developed through scholarly research and move them toward implementation. By exposing ineffective, costly

government functions and regulations, and by promoting competition in public management, the Center seeks to ensure that citizens and taxpayers come first.

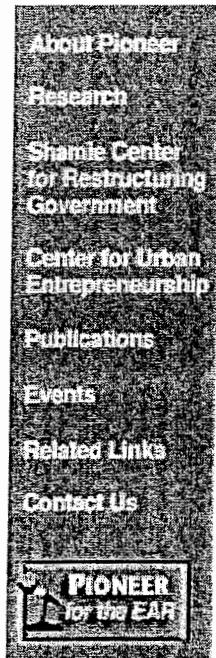
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For more on the Center's current initiatives, [click here](#).

For a brief look at the Center's history, [click here](#).

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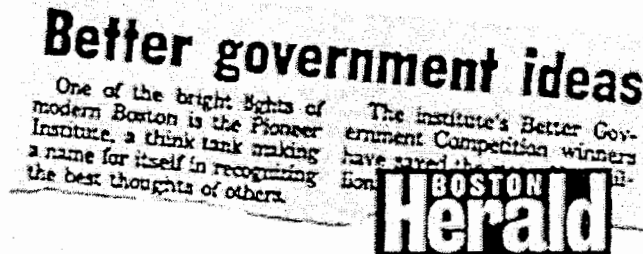
**Economic  
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## Shamie Center for Restructuring Government

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### Better Government Competition



The Better Government Competition (BGC) is a catalyst for grassroots participation in policy making. An annual contest—sponsored by Pioneer Institute's Shamie Center for Restructuring Government and open to any citizen—the BGC seeks innovative, concrete ideas to improve the quality and cost-effectiveness of governmental services in Massachusetts and to provide a public forum for these ideas.

Now in its 13th year, the BGC has had a major impact not only in the Commonwealth but beyond as well. Since its inception in 1991, the Better Government Competition has saved Massachusetts citizens an estimated \$300 million and has been replicated in several other states and abroad.



The 2004 Better Government Competition is now under way. Entries are being accepted now through March 8, 2004, that propose fresh and groundbreaking ideas addressing specific Massachusetts policy issues and



concerns.



***A grand prize winner will be awarded \$5,000; runners-up will receive \$1,000 each.***

Competition entries have spanned the full range of policy issues—below are just a few examples of winning proposals from recent years:

- **Educational Collaboratives: Saving Tax Dollars for Massachusetts Schools**, by M. Craig Stanley, 2003
- **Observations from the Front Lines: The State Can Save Money and Provide Good Care**, by Gracemarie and Joyce Tomaselli, 2003
- **Reaping Gold by Sowing Green: Investing in High Performance Public Buildings**, by Richard B. Kennelly, Jr., 2000
- **Justice Delayed: Improving the Administration of Civil Justice in the Massachusetts District and Superior Courts**, by Hon. Daniel B. Winslow, 1998

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**\* \* How to enter the 2004 Better Government Competition \* \***

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**Previous years' Better Government Competition winners**

**United Press International article on the competition**  
[February 2, 2003]

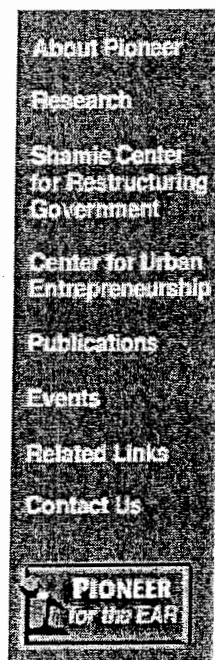
**Brief history of the Better Government Competition**

**10th anniversary retrospective**

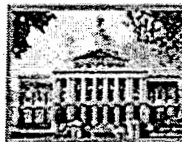
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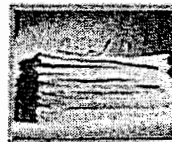
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Emerging Issues

## Shamie Center for Restructuring Government

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## Better Government Competition Year-by-Year History

### 1991

Pioneer did not have to look far for an urgent topic when it launched the Better Government Competition in 1991. At the time, Massachusetts was in the throes of a severe fiscal crisis. Falling tax revenues could no longer support the high service levels that citizens of the Commonwealth had come to expect. Pioneer asked the question, "How can we reorganize, restructure, or privatize parts of state government to save money and maintain service?" Four of the winning proposals were implemented by the state, with impressive results. Those four--to privatize state-owned pharmacies, vehicle fleet maintenance, and child support payment processing, along with reorganization of the MBTA--saved the Commonwealth \$24 million and improved the quality of government services.

### 1992

In 1992, the BGC turned its attention to environmental programs and policies. Two proposals have had a particularly significant impact on the Commonwealth's environmental policy. One laid the groundwork for Massachusetts WasteCap, a non-profit technical assistance organization that helps Massachusetts firms decrease commercial solid waste and save money by improving their policies and practices.

The second was a plan that was partially adopted by the Massachusetts Water Resources Authority (MWRA) to use an alternative technology, chemically enhanced primary treatment (CEPT), in the Boston Harbor cleanup. Use of this technology allows the MWRA to meet EPA standards with a smaller plant, saving ratepayers \$165 million.

### 1993

Pioneer's third contest targeted a constituency whose problems capture the hearts of people everywhere: children. A winning proposal to establish nurse-managed clinics as a means to improve health care access and to decrease costs is taking root, particularly in rural western Massachusetts.

**1994**

The 1994 Better Government Competition sought answers to the seemingly intractable problems of poverty and welfare reform. Once again, thoughtful citizens from across the Commonwealth responded with solutions. Reforms suggested by Robert Melia in his winning entry, "Two Parents, Two Incomes: Welfare Reform for the 1990s" were included in both the Massachusetts welfare reform law enacted in 1995 and the 1996 federal reform law.

**1995**

With the topic "Local Solutions to Public Problems," Pioneer again focused on a fundamental principle. Solutions came pouring in on topics ranging from law enforcement to wastewater treatment. Last year, reforms suggested by former Attorney General Scott Harshbarger in "Using the Tort System to Improve Government Services" became law. The legislation deters agency managers and employees from acting negligently by requiring that a portion of any tort judgments against a state agency be paid out of the agency's budget instead of a separate state account. Agencies that successfully reduce liability receive a rebate.

There has been movement toward proposals made by John Kramer and William Mellor of the Institute for Justice in "Opening Boston's Taxicab Market." One hundred fifty taxi medallions have been distributed this year in two separate auctions. At the most recent auction, medallions sold for an average of \$166,000, demonstrating just how much pent-up demand there is for additional cabs since the number of medallions available in Boston has been virtually frozen since 1930.

**1996**

Three years ago the BGC ventured into uncharted territory by focusing on public safety. Opposition from Boston's police union seems to be the last obstacle for a group of downtown leaders who are trying to make the Washington Street retail area safer and cleaner by creating Boston's first Business Improvement District. BIDs were one of the two tools proposed by Kate Horrigan and Richard T. Reinhard in "BIDs and Main Streets: Two Paths to Community Revitalization."

**1997**

In its first year as part of Pioneer's new Center for Restructuring Government, the Better Government Competition explored "Bringing the Benefits of Competition to State and Local Government." "Outsourcing of Real Estate Management and Development in the Private Sector" chronicled the progress of Transit Realty Associates, the private firm that won the contract to manage the MBTA's vast real estate holdings. In just three years, TRA has nearly doubled the \$5.2 million in revenue it was projected to generate for taxpayers over the term of the five-year contract and brought the T \$764,000 in cost savings.

**1998**

The decision to select a single BGC winner immediately paid dividends with Judge Daniel B. Winslow's "Justice Delayed: Improving the Administration of Civil Justice in Massachusetts District and Superior Courts." Judge Winslow clearly struck a nerve in a judiciary unaccustomed to public scrutiny with his reform proposal. He suggested instituting a "Smart Calendar" to eliminate multiple false starts in civil trials and the "Economic Litigation Alternative" to make civil trials faster and less costly without sacrificing quality. Faced with the possibility of additional papers from Judge Winslow, the Supreme Judicial Court's Committee on Ethics suggested that he not write again for Pioneer. Oddly, the Committee based its decision on an "implementation plan" that was included in an early draft of the proposal but deleted long before publication, and a claim that Pioneer is a "law reform institute" with a clear agenda on the topic of judicial reform. "Justice Delayed" was the first and only piece Pioneer ever published on the topic. Undaunted, Judge Winslow continues to fight for reform on his own.

## 1999

After a couple of years of fine-tuning, the Better Government Competition once again hit its stride. By loosening entry requirements, reducing the number of finalists, picking one winner, and increasing his or her prize to \$10,000, the contest attracted a bigger and more diverse group of entrants. Additionally, the topic of "A Wise and Frugal Government" was also general enough to accommodate a broad range of ideas. In fact, despite publicizing the competition almost exclusively in Massachusetts, the BGC attracted entries from across the country. This year's winner was Minnesota's Board of Government Innovation and Cooperation, a unique state-local partnership designed to improve local public service outcomes. The Board has the power to waive administrative rules and grant some temporary exemptions from procedural laws, approve local plans to merge units of government, and award competitive grants to local officials willing to develop innovative service delivery methods.

## 2000

Entries for the 10th annual Better Government Competition increased to a record 220--and the expanded pool showed no diminution in quality. Like so many of the best proposals from past years, the basic idea of the winner, "Breaking the Cycle of Abandonment," from New York City, was elegantly simple. The city's Department of Housing Preservation and Development has launched a program to expedite ownership?particularly by low-income residents?of city-foreclosed housing, resulting in rehabilitation of dilapidated buildings and greater availability of affordable housing units.

The BGC also celebrated its 10th anniversary with a special retrospective highlighting some of the most important winning ideas over the past decade.

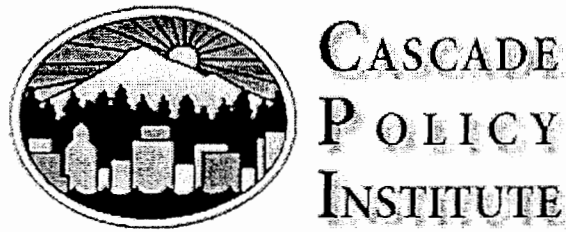
## 2001

For the first time, our judges selected co-winners. Though both come from Maryland, they addressed radically different issues. Prince

George's County's regional processing initiative has transformed the way individuals arrested by the police are processed. Instead of keeping officers off the street for up to six hours processing arrestees at local police stations, the county has designated three strategically located processing facilities. Data collection has been automated and information is shared with state, local, and federal law enforcement agencies. To minimize contact and potential conflict between arresting officers and arrestees, processing procedures are conducted by corrections staff.

The other winner proved the merits of "faith-based" initiatives. As part of "Project Outreach," volunteers from churches around Worcester County, Maryland, have come together to provide after-school instruction for elementary school students. In three years, the program has resulted in measurable academic improvement, and is succeeding at closing the achievement gaps between ethnic groups and genders across the poor, rural county on Maryland's eastern shore.

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*The following column ran in the Pendleton East Oregonian newspaper on March 28, 2000. It is reprinted with permission from the author.*

## **Technology is changing the face of government**

*by Phil Keisling*

Twenty years ago computers, fax machines, cellular phones and the Internet were either quaint curiosities or technological pipe dreams. Today these and other innovations are transforming workplaces and homes around the world.

In a recent Atlantic Monthly article the renowned management consultant Peter Drucker likens our situation to the dawn of the railroad era in pre-civil war America. The application of steam power to transportation made the movement of goods and people exponentially faster and cheaper-and unleashed remarkable political, social and economic changes for decades to come.

What implications and opportunities do today's innovations hold for the many ways that government interacts with citizens?

Across the country innovative leaders are exploring the possibilities.

In Arizona citizens can now register their cars from the comfort of their own homes. IBM developed Arizona's online vehicle registration program, which operates on IBM's servers in exchange for \$1 per transaction and 2% of revenues.

Los Angeles County expects to move up to 80% of its \$650 million in annual purchases to the Internet during 2000. The county expects the move to reduce the need for storage space and save \$29 million over five years, while generating an additional \$9.5 million from warehouse property sales.

Colorado officials are exploring the option of allowing lawsuits to be filed electronically. In Boston you can pay for dog licenses and parking tickets on line. And Clark County, Nevada, home of Las Vegas and the marriage capitol of the West, recently began selling copies of marriage licenses over the Web.

Within five years New York City officials hope to offer a full range of Internet options, from paying taxes and submitting construction plans to bidding on municipal contracts.

Last fall former Indianapolis Mayor Stephen Goldsmith challenged his staff to come up with two ideas for electronic services each week. The city's residents enjoy a

variety of online services through their web site, [www.indygov.org](http://www.indygov.org), including opportunities to pay parking tickets and apply for electrical permits without traipsing down to City Hall. The site even allows citizens to access and rework the city budget-and submit their recommendations to the mayor.

Oregon is on the band(width)wagon as well.

Ashland, Medford, Grants Pass, Jackson County and Josephine County are currently working to bring online government services to Southern Oregon.

Last spring two officials of the Oregon Department of Administrative Services had an inspiration. Why couldn't the popular online auction site Ebay be used to help dispose of surplus government property? Oregon seems to be a true pioneer in this category; potential bidders from around the world daily take advantage of this simple idea and Oregonians are benefiting from increased revenue.

During my term as Secretary of State our Corporations Division laid the groundwork to allow Oregon's more than 100,000 business entities to register their corporate names on-line-eliminating the need to process paper forms and cash checks. This service is expected to be operational before the end of 2000.

In what other ways can Oregon improve public services and decrease costs through the use of information technology? The 2000 Oregon Better Government Competition seeks to answer that question.

Organized by Cascade Policy Institute, the Competition invites ideas on how to improve state or local government. This year's theme is "Technology, Innovation and Competition: 21st Century Solutions for Oregon." All ideas-technology related or otherwise-are welcome, and anyone can participate. I encourage Oregonians and others to enter this Competition.

State and local governments across the country are showing their ingenuity by infusing technological innovation into public services. With our strong high-tech presence and our commitment to progress, Oregon can be a leader in these revolutionary advances.

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Phil Keisling, former Oregon Secretary of State, is vice president for business development of PROdX, and a judge of the 2000 Oregon Better Government Competition.

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## Think tanks run policy competitions

By Christian Bourge  
 UPI Think Tanks Correspondent  
 From the Think Tanks & Research Desk  
 Published 2/4/2003 7:32 PM

WASHINGTON, Feb. 4 (UPI) -- Several regional think tanks driven by free-market ideology are sponsoring public competitions that solicit policy ideas, in an effort to have a direct impact upon policymakers at the state and local levels.

Charles Chieppo, former director of the Better Government Competition held by the Boston-based Pioneer Institute for Public Policy Research, told United Press International that such competitions are an effective way for state-level think tanks to have a positive influence on government.

"In the 11 years that the Pioneer program has been in operation, the winning proposals have saved about \$300 million of Massachusetts taxpayers' money," said Chieppo, who recently left Pioneer to become policy director of the Massachusetts office of administration and finance under Republican Governor Mitt Romney.

For 2003, the Pioneer Institute has called for citizens to submit money-saving policy proposals on issues plaguing the cash-strapped Massachusetts government. The issues include improving education, fixing the state's budget deficit situation, encouraging urban business development and reforming Medicaid.

A grand prizewinner will be chosen in each category and will be awarded \$3,000. Judges for the competition are drawn from academia, media, the business world and the think tank itself.

Whether the competition -- which is credited as being the first of its kind -- has accomplished its main objective of finding fresh, groundbreaking policies, is open to interpretation. But the winners have certainly had an impact on state and local policy in Massachusetts.

Following Pioneer's publication of the first winning entries in 1991, William Weld, the Republican governor of Massachusetts at the time, reportedly issued a memo in which he said that eight of the ideas honored in the tank's competition should be implemented during his tenure.

Several of those proposals, including a system for managing and maintaining government-owned property, eventually became state policy. Another winning plan for cleaning up Boston harbor was adopted by the Massachusetts Water Authority in its effort to address pollution problems in the bay.

Ralph Buglass, director of communications at Pioneer, told UPI that over the years, the response of government officials to the winning policy ideas has generally been very good, because the proposals are typically designed to both improve efficiency and hold down costs.

"In this budget climate, that will fall on especially receptive ears," he said. Buglass noted that the state faces a shortfall of more than \$2 billion this fiscal year.

Other free-market-oriented think tanks from across the nation and around the globe have emulated the Pioneer program.

Pioneer model. The Josiah Bartlett Center for Public Policy in New Hampshire, the London-based Smith Institute and Canada's Fraser Institute have all held similar competitions.

Kurt T. Weber, vice president of the Cascade Policy Institute in Portland, Ore., said that his think tank's policy competitions have allowed the general public to have a greater say in the policy process in the state.

"The idea is to engage citizens more in ideas and to give them a soap box on which to stand," Weber said.

Cascade, which is also driven by free-market ideology, held four policy competitions in 1994, 1997, 1999 and 2000. Weber said that they have been successful in raising public awareness about important issues and getting legislative action.

For example, he said that one winning application helped garner support for a state pilot project that facilitates quicker placement of foster children in permanent homes. The program was eventually implemented by the state.

He also credited a winning entry in 2000 for raising public awareness about Oregon's severely underfunded Public Employee Retirement System, a problem that is currently subject to great political debate in the state.

Although the competitions have been successful, Weber said that Cascade decided to stop holding them because they no longer fit into the think tank's agenda.

In addition, he noted that the contests had already generated a number of long-term ideas from the nearly 800 entries they received from individuals across the political spectrum.

Beyond think tanks, local governments have begun to also use these competitions as a policy tool. Bill LaFortune, the mayor of Tulsa, Okla., began a competition in 2002 that is modeled on the Pioneer program, and that Pioneer has helped to run.

LaFortune has offered a \$10,000 prize for the best idea to make city operations more efficient. In addition, three runners up will receive \$1,000 for their ideas.

The city has held similar policy competitions in the past, but this is the first time that one is open to public participation.

Stan Staley, president and co-founder of the Buckeye Institute, a free-market think tank in Columbus, Ohio, said that policy competitions are an effective way to find new ideas. He said that the ones run by Cascade and Pioneer have been particularly effective in this regard.

"I think the competitions that are run well really have an opportunity to have a real impact on public policy," Staley told UPI. "What is good about them is that they can develop concrete ideas that are workable, and with those ideas they can create a blueprint for reform."



**Texas State Council on Competitive Government**  
**Annual Savings from Competitively Contracted State Activities FY 94 - FY 03**

<b>Fiscal Year</b>	<b>Contract</b>	<b>Annual Savings</b>
<b>FY94</b>	Comptroller's Printshop	\$ 750,000
	Travis County Print Shops	\$ 1,390,320
	Tex-An III Renegotiation	\$ 8,701,466
	DIR Data Center	\$ 675,000
	Total Savings FY94	\$ 11,516,786
	Cumulative Savings	\$ 11,516,786
<b>FY95</b>	Travis County Print Shops	\$ 4,509,945
	DIR Data Center	\$ 1,499,820
	Mail Presort/Barcoding	\$ 1,134,016
	Library Paper Disposal	\$ 205,732
	Total Savings FY95	\$ 7,349,513
	Cumulative Savings	\$ 18,866,299
<b>FY96</b>	Travis County Print Shops	\$ 2,993,220
	DIR Data Center	\$ 1,823,220
	Mail Presort/Barcoding	\$ 1,951,140
	Library Paper Disposal	\$ 81,606
	Retail Fuel Card	\$ 21,612
	San Antonio Parts Warehouse	\$ 950
	Total Savings FY96	\$ 6,871,748
	Cumulative Savings	\$ 25,738,047
<b>FY97</b>	Travis County Print Shops	\$ 2,694,734
	DIR Data Center	\$ 1,816,168
	Mail Presort/Barcoding	\$ 1,763,006
	Library Paper Disposal	\$ 31,691
	Retail Fuel Card	\$ 72,631
	Expanded New Mail Presort	\$ 100,000
	Total Savings FY97	\$ 6,478,230
	Cumulative Savings	\$ 32,216,277
<b>FY98</b>	Travis County Print Shops	\$ 2,694,734
	DIR Data Center	\$ 1,725,269
	Library Paper Disposal	\$ 44,480
	Retail Fuel Card	\$ 80,843
	San Antonio Auto Parts Warehouse	\$ 156,989
	Expanded New Mail Presort	\$ 2,974,122
	Total Savings FY98	\$ 7,676,437
	Cumulative Savings	\$ 39,892,714
<b>FY99</b>	Travis County Print Shops	\$ 883,934
	DIR Data Center	\$ 871,152
	Library Paper Disposal	\$ 48,852
	Retail Fuel Card	\$ 39,766
	Expanded New Mail Presort	\$ 1,436,872
	Total Savings FY99	\$ 3,280,576

**Texas State Council on Competitive Government**  
**Annual Savings from Competitively Contracted State Activities FY 94 - FY 03**

	Cumulative Savings	\$ 43,173,290
<b>FY00</b>		
	Travis County Print Shops	\$ 2,456,250
	Retail Fuel Cards	\$ 114,637
	Expanded New Mail Presort	\$ 4,073,683
	San Antonio Auto Parts Warehouse	\$ 768,197
	Document Destruction Services	\$ 17,270
	Debt Collection (CPA)	\$ 3,685,934
	Total Savings FY00	\$ 11,115,971
	Cumulative Savings	\$ 54,289,261
<b>FY01</b>		
	Travis County Print Shops	\$ 2,500,000
	Retail Fuel Cards	\$ 124,521
	Expanded New Mail Presort	\$ 3,031,748
	San Antonio Auto Parts Warehouse	\$ 988,285
	Document Destruction Services	\$ 16,687
	Debt Collection (CPA)	\$ 3,404,577
	San Antonio Fueling Facility (TxDOT)	\$ 74,244
	Vendor Drug Claims Processing	\$ 198,450
	Total Savings FY01	\$ 10,338,512
	Cumulative Savings	\$ 64,627,773
<b>FY02</b>		
	Travis County Print Shops	\$ 2,784,000
	Retail Fuel Cards	\$ 100,022
	Expanded New Mail Presort	\$ 2,145,349
	San Antonio Auto Parts Warehouse	\$ 650,100
	Document Destruction Services	\$ 82,081
	Debt Collection (CPA)	\$ 3,187,574
	San Antonio Fueling Facility (TxDOT)	\$ 146,518
	Police Mobile Video	\$ 10,721,295
	Total Savings FY02	\$ 19,816,939
	Cumulative Savings	\$ 84,444,712
<b>FY03</b>		(estimated)
	Travis County Print Shops	\$ 3,800,000
	Retail Fuel Cards	\$ 200,000
	Expanded New Mail Presort	\$ 2,100,000
	San Antonio Auto Parts Warehouse	\$ 650,000
	Document Destruction Services	\$ 75,000
	Digital Imaging	\$ 100,000
	San Antonio Fueling Facility (TxDOT)	\$ 150,000
	Total Savings FY03	\$ 7,075,000
	Cumulative Savings	\$ 91,519,712